21377

TRANSCRIPT OF RECORD.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 190.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,

vs.

THE UNITED STATES OF AMERICA,
Appellees.

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Filmer Brothers Co. Print, 424 Sansome St., S. F.

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Supreme Court U. S.

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1902.

Vol. 31.
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25. Annual Report of the Texas and Pacific Railway Company for the year ending June 30, 1876, to the Department of the Interior, Washington, D. C., together with Letter dated Sept. 28, 1876, Thomas A. Scott, Pres. T. P., to Hon. Z. Chandler, Secretary of the Interior.....	1498	1730
Letter of Thomas A. Scott to Hon. Z. Chandler	1499	1731
Annual Report	1500	1731
26. Annual Report of the Texas and Pacific Railway Company to the Department of the Interior, Washington, D. C., July 1, 1877, together with Letter, dated Oct. 1, 1877, Thomas A. Scott, Pres. Tex. & Pacific Railway Company, to Hon. Carl Schurz, Secretary of the Interior	1509	1741
Letter of Thomas A. Scott to Hon. Carl Schurz.	1510	1741
Annual Report	1511	1741
27. Map of the Texas and Pacific Railway and its connections through Texas, New Mexico, Arizona and California, accompanying the Report of the Texas and Pacific Railway Company for the year ending June 30, 1877	1520	1751

	Original.	Print.
28. Annual Report of the Texas and Pacific Railway Company for the year ending June 30, 1874	1531	1760
29. Map of the Texas and Pacific Railway and its connections, filed with and accompanying the Annual Report of the Texas Pacific Railway Company to the Secretary of the Interior for the year ending June 30, 1876	1544	1773
Exhibits filed before H. S. Rollins, Notary Public, in Consolidated Cause No. 675:		
A1. Order of the Secretary of the Interior of May 23, 1887	1559	1787
A2. Answer of the Southern Pacific Railroad Company to the Order of the Secretary of the Interior of May 23, 1887	1564	1792
A3. Order of the Secretary of the Interior, dated August 15, 1887	1585	1816
A4. Protest by the Southern Pacific Railroad Company to the Secretary of the Interior, dated November 16, 1887	1589	1820
A5. Record of the hearing had before the Register and Receiver of the Los Angeles, California, Land District, in the case of Joseph Crawford v. S. P. R. R. Co	1594	1825
A6. Letter, dated January 8, 1891, Lewis A. Groff, Commissioner, to Register and Receiver, Los Angeles, Cal	1603	1848
A7. Decision of the Register and Receiver of the Los Angeles Land District, in the case of Joseph Crawford v. S. P. R. R. Co., and appeal from said decision by the S. P. R. R. Co	1606	1849

	Original.	Print.
Decision by Register and Receiver	1607	1831
Appeal of S. P. R. R. Co.	1609	1833
A8. Decision of the Commissioner of the General Landoffice in the case of Joseph Crawford v. S. P. R. R. Co., and appeal of the S. P. R. R. Co., therefrom	1611	1854
Decision of the Commissioner of the General Landoffice	1612	1855
Appeal of the S. P. R. R. Co.	1614	1856
A9. Decision of the Secretary of the Interior in the case of Joseph Crawford v. S. P. R. R. Co., and Letter, dated September 11, 1894, S. W. Lamoreux, Commissioner, to C. P. Huntington, Esq., President Southern Pac. R. R. Co.	1617	1859
Decision of the Secretary	1618	1860
Letter to C. P. Huntington	1633	1862
Exhibits filed before Special Examiner G. W. Parker in Consolidated Cause No. 675:		
1. Texas and Pacific Railway, California Division —Map of surveys between Pima villages, Ariz., and San Diego, Cal.	1818	2073
2. Map, from east line of range 6, thence to the Pacific Ocean, showing line of route by San Gorgonio Pass, and line "D" to San Diego	1819	2074
3. Map of Texas and Pacific Railway, Arizona Division, from Fort Yuma to Pima villages	1820	2075
Exhibits filed before Special Examiner H. S. Rollins, Esq., in Consolidated Cause No. 675:		
A. Texas and Pacific Railway, California Division, Map of Surveys between Pima villages, Ariz., and San Diego, Cal.	1837	2097

	Original.	Print.
B. Diagram of Texas and Pacific Railway, showing portion of California Division from Yuma to head of Temecula Canyon, with 20, 30, and 40 mile limits..... 1838		2098
Evidence for Defendants:		
Deposition of J. L. Willcutt, before Special Examiner Potter, in Cause No. 587	712	877
Deposition of J. L. Willcutt, forming part of the Report of Stephen Potter, Special Examiner in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587.....	787	957
Deposition of Charles J. Wilder, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, DEFENDANTS' EXHIBIT NO. 4, before Special Examiner Potter in Cause No. 587.	1069	1274
Deposition of Gerrit L. Lansing, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, DEFENDANTS' EXHIBIT NO. 6, before Special Examiner Potter in Cause No. 587.....	1113	1320
Deposition of Charles F. Crocker, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of		

	Original.	Print.
America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, DEFENDANTS' EXHIBIT NO. 8, before Special Examiner Potter in Cause No. 587.	1142	1355
Deposition of Charles E. Satterlee, in Cause No. 587, before Everett J. Esselstyn, a Notary Public, at New York	1230	1449
Deposition of Joseph H. Call, in Cause No. 587, before Everett J. Esselstyn, a Notary Public, at New York	1247	1471
Deposition of Samuel S. Marr, taken at Washington, D. C., before Clarence L. Trevitt, Special Examiner and Stenographer, in Consolidated Cause No. 675	1857	2121
Deposition of Arthur Martin, taken at Washington, D. C., before Clarence L. Trevitt, Special Examiner and Stenographer, in Consolidated Cause No. 675	1859	2122
Deposition of Jerome Madden, taken at San Francisco, California, before Stephen Potter, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1884	2142
Deposition of William Singer, Jr., taken at San Francisco, California, before Stephen Potter, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1888	2145
Deposition of Jerome Madden, recalled, taken at San Francisco, California, before Stephen Potter, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1889	2146
Deposition of W. H. H. Hart, taken at San Francisco, California, before Stephen Potter,		

	Original.	Print.
Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1907	2167
Deposition of Charles D. Rhodes, taken at San Francisco, California, before Stephen Potter, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1917	2197
Deposition of William Hood, taken at San Francisco, California, before Stephen Potter, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1920	2182
Deposition de bene esse of William Salomon, on behalf of Defendants, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, taken before Patrick A. Nolan, Esq., Notary Public, in New York (Defendants' Exhibit No. 98, before Examiner Potter in Cause No. 600), DEFENDANTS' EXHIBIT NO. 57, before Special Examiner Potter in Consolidated Cause No. 675	2094	2375
Deposition of George T. Folsom, on behalf of Defendants, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, before Stephen Potter, Esq., Special Examiner, DEFENDANTS' EXHIBIT NO, 58, before Special Examiner Potter, in Consolidated Cause No. 675	2114	2395
Deposition of Frank S. Douty, on behalf of Defendants, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, before Stephen Potter, Esq., Special Exam-		

	Original.	Print.
iner, DEFENDANTS' EXHIBIT NO. 59, before Special Examiner Potter, in Consolidated Cause No. 675 2118		2399
Exhibits before Special Examiner Potter in Cause No. 587:		
Reference to the Annual Reports of the Secretary of the Interior for the years 1875, 1876, 1877, and 1878	723	889
1. Articles of Association, Southern Pacific Railroad Company, dated Nov. 29, 1865 (Master's Exhibit No. 195, in Cause Nos. 67, 68, and 69, consolidated; Plaintiffs' Exhibit No. 2, before Examiner Lamme in Cause No. 184; Plaintiffs' Exhibit No. 6, before Examiner Longley, in Cause No. 600)....	727	891
2. Articles of Association, Amalgamation, and Consolidation, San Francisco and San Jose, the Santa Clara and Pajaro Valley, the Southern Pacific, and the California Southern Railroad Companies, dated October 11, 1870, forming part of Deposition of J. L. Willcutt (Master's Exhibit No. 102, in Cause Nos. 67, 68, and 69, consolidated; Plaintiff's Exhibit No. 3, before Examiner Lamme in Cause No. 184; Plaintiffs' Exhibit No. 7, before Examiner Longley in Cause No. 600)....	733	935
Deposition of J. L. Willcutt	735	897
Articles of Association, Amalgamation, and Consolidation	766	935
3. Deposition of J. L. Willcutt, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of		

	Original.	Print.
America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184	787	957
Defendants' Exhibits before Special Examiner Potter:		
65. Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Charles Crocker, Pres. Southern Pac. R. R. Co	849	1032
66. Letter, dated August 5, 1868, O. H. Browning, Secretary of the Interior, to President of the Southern Pacific R. R. Co	850	1034
67. Letter, dated September 26, 1868, W. T. Otto, Acting Secretary of the Interior, to T. G. Phelps, Pres. Southern Pac. R. R. Co	853	1037
68. Letter, dated August 31, 1870, J. D. Cox, Secretary of the Interior, to Lloyd Tevis, Pres. Southern Pac. R. R. Co	854	1038
69. Letter, dated Sept. 1, 1876, Z. Chandler, Secretary of the Interior, to Chas. Crocker, Pres. Southern Pac. R. R. Co	855	1039
70. Series of 37 Letters, dated respectively: July 13, 1878; July 22, 1878; July 26, 1878; July 29, 1878; August 1, 1878; August 27, 1878; September 3, 1878; September 9, 1878; September 20, 1878; September 27, 1878; October 1, 1878; October 4, 1878; October 7, 1878; October 10, 1878; October 12, 1878; October 15, 1878; October 16, 1878; October 17, 1878; Octo-		

	Original.	Print.
ber 19, 1878; October 22, 1878; October 24, 1878; April 17, 1879; May 17, 1879; September 1, 1879; February 28, 1880; March 18, 1880; March 22, 1880; May 6, 1880; July 2, 1880; July 22, 1880; September 7, 1880; September 18, 1880; March 1, 1881; March 19, 1881; April 19, 1881; May 12, 1881; May 12, 1881—Auditor of Railroad Accounts and Commissioner of Railroads to President, Secretary, and General Accountant, Southern Pacific R. R. Co.....	859	1043
71. Letter, dated October 2, 1868, W. T. Otto, Acting Secretary of the Interior to C. P. Huntington, Attorney Southern Pacific R. R. Co.....	901	1077
72. Letter, dated November 2, 1881, Jos. K. McCammon, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	902	1078
73. Letter, dated February 1, 1882, Jos. K. McCammon, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	903	1080
74. Letter, dated May 20, 1882, W. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	904	1081
75. Letter, dated November 9, 1882, Wm. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	905	1082

	Original.	Print.
76. Letter, dated August 11, 1883, W. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	906	1083
77. Letter, dated April 3, 1884, F. B. Pickerell, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	907	1084
78. Letter, dated September 6, 1884, Thos. J. Walker, in charge of office of Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	909	1086
79. Letter, dated February 10, 1885, F. B. Pickerell to J. W. Willcutt, Secretary Southern Pacific R. R. Co.....	910	1087
80. Letter, dated May 22, 1885, J. E. Johnston, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	911	1088
81. Letter, dated December 21, 1885, J. E. Johnston, Commissioner of Railroads, to Charles Crocker, President Southern Pacific R. R. Co.....	913	1089
82. Letter, dated August 30, 1886, Edward Herrick, in charge of office of Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	917	1093
83. Letter, dated May 7, 1887, Edward Herrick, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	918	1094

	Original.	Print.
84. Letter, dated May 7, 1887, Edward Herrick, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co.....	919	1095
85. Letter, dated September 17, 1887, Edward Herrick, for the Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific R. R. Co.....	921	1096
86. Letter, dated April 2, 1888, Edward Herrick, for the Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific R. R. Co.....	922	1097
87. Letter, dated June 4, 1889, Edward Herrick, in charge of office of Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific R. R. Co.....	923	1098
90. Trust Mortgage, Southern Pacific Railroad Co., to D. O. Mills and Lloyd Tevis, dated April 1, 1875	924	1100
91. Deed of Trust, Southern Pacific Railroad Company, of the first part, Southern Pacific Company, of the second part, and Central Trust Company of New York, of the third part, dated August 25, 1888....	955	1140
92. Letter, dated October 24, 1889, W. M. Thompson, in charge of office of Commissioner of Railroads, to G. L. Lansing, Controller Southern Pacific Co.....	991	1185
93. Letter, dated October 21, 1890, W. M. Thompson, in charge of office of Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Railroad Co.....	992	1186

	Original.	Print.
94. Letter, dated October 21, 1891, W. M. Thompson, Bookkeeper of the Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company.....	993	1187
95. Letter, dated September 28, 1892, W. M. Thompson, Bookkeeper, Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company....	994	1188
96. Letter, dated September 16, 1893, F. E. Storm, Bookkeeper of the Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company....	995	1189
Exhibit "L" on Cross-Examination; Extracts from the Minutes of the Board of Directors, Southern Pacific Railroad Company.....	996	1190
Reference to the Annual Reports of the Auditor of Railroad Accounts, made to the Secretary of the Interior, for the years ending June 30, 1880, June 30, 1881, June 30, 1882, June 30, 1882, June 30, 1883, June 30, 1884, June 30, 1885, June 30, 1886, June 30, 1887, June 30, 1888, June 30, 1889, June 30, 1890, June 30, 1891, June 30, 1892.....	1064	1269
4. Deposition of Charles J. Wilder, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184.....	1069	1274
Defendants' Exhibits before Special Examiner Potter:		

	Original.	Print.
120. Statement of Account: The United States to the Southern Pacific Company, Pacific System, for transportation furnished in months of September, October, and November, 1889..... 1086		1295
121. Request for transportation, made to the Southern Pacific Company by Quartermaster's Department, U. S. Army.....1090		1299
122. Request for transportation, made to the Southern Pacific Railroad Company, by Quartermaster's Department, U. S. Army.1093		1301
132. Letter, dated May 11, 1874, B. R. Cowen, Acting Secretary of the Interior, to W. W. Curtis, Acting Commissioner of the General Landoffice..... 1096		1304
133. Letter, dated Nov. 13, 1875, Z. Chandler, Secretary of the Interior, to S. S. Burdett, Commissioner General Landoffice.....1099		1307
134. Letter, dated July 22, 1876, Z. Chandler, to J. A. Williamson, Commissioner General Landoffice..... 1102		1310
135. Letter, dated March 3, 1877, Chas. T. Gorham, Acting Secretary of the Interior, to J. A. Williamson, Commissioner General Landoffice..... 1105		1314
136. Letter, dated January 30, 1878, C. Schurz, Secretary of the Interior, to J. A. Williamson, Commissioner General Landoffice....1108		1316
137. Letter, dated October 4, 1893, Wm. H. Sims, Acting Secretary of the Interior, to D. A. Chambers..... 1112		1319

	Original.	Print.
6. Deposition of Gerrit L. Lansing, forming part of the Report of Stephen Potter, Special Examiner, in the cause of the United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184	1113	1320
Exhibit "M" before Special Examiner Stephen Potter, on Cross-examination, Lease, dated February 10, 1885, to Southern Pacific Company of Kentucky, by Southern Pacific Railroad Company of California and seven other companies	1134	1346
8. Deposition of Charles F. Crocker, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184	1142	1355
9. Map of General Route of Southern Pacific Railroad from Tehachapi Pass, by way of Los Angeles, to the Colorado River; also Letter of Acting Secretary of the Interior to the Commissioner of the General Landoffice of April 3, 1871 (Plaintiffs' Exhibit No. 45 before Examiner Lamme in Case No. 184; Plaintiffs' Exhibit No. 40 before Examiner Leo Longley in Case No. 600)	1145	1359
Certificate of Commissioner of General Landoffice	1145	1359
Letter of Acting Secretary	1146	1360
Map	1148	1362
10. Letter, dated April 21, 1871, Willis Drummond, Commissioner, to Register and Receiver, Los Angeles, Cal. (Master's Exhibit 132 in Case		

Original. Print.

Nos. 67, 68, and 69 Consolidated; Plaintiffs' Exhibit 24 before Examiner Lamme in Case No. 184; Plaintiffs' Exhibit 27 before Examiner Longley in Case No. 600).....1149 1363

11. Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Charles Crocker, President Southern Pacific R. R. Co. (Defendants' Exhibit 65 before Examiner Potter in Case No. 184).....1152 1365

12. Resolution of the Southern Pacific Railroad Company, accepting terms, conditions, and impositions of the Act of Congress approved March 3, 1871, on file in the Department of the Interior..... ....1153 1366

19. Report of Railroad Commissioners, dated April 15, 1874, on First Section Southern Pacific Railroad, Act of March 3, 1871; Letter, dated May 8, 1874, B. R. Cowen, Acting Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit 29 before Examiner Potter in Case No. 184; Defendants' Exhibit 43 before Examiner Potter in Case No. 600).....1155 1367

Report of the Commissioners.....1156 1380

Letter of the Secretary.....1166 1380

Approval by the President.....1166 1381

20. Report of Railroad Commissioners, dated October 21, 1875, on Second Section of the Southern Pacific Railroad, Act of March 3, 1871; Letter, dated Nov. 8, 1875, Z. Chandler, Secretary, to the President of the United States, and Approval by the President of the United States

	Original.	Print.
(Defendants' Exhibit 30 before Examiner Potter in Cause No. 184; Defendants' Exhibit 44 before Examiner Potter in Cause No. 600)....	1168	1381
Report of the Commissioners.....	1169	1381
Letter of the Secretary.....	1177	1392
Approval by the President.....	1177	1393
21. Report of Railroad Commissioners, dated June 22, 1876, on Third Section, Southern Pacific Railroad, Act of March 3, 1871; Letter, dated July 10, 1876, Z. Chandler, Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit 31 before Examiner Potter in Case No. 184; Defendants' Exhibit 45 before Examiner Potter in Case No. 600).....	1179	1393
Report of the Commissioners.....	1180	1394
Letter of the Secretary.....	1188	1404
Approval by the President.....	1188	1405
22. Report of Railroad Commissioners, dated February 17, 1877, on Fourth Section, Southern Pacific Railroad, Act of March 3, 1871; Letter, dated March 1, 1877, Chas. T. Gorham, Acting Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit 32 before Examiner Potter in Case No. 184; Defendants' Exhibit 46 before Examiner Potter in Case No. 600).....	1190	1405
Report of the Commissioners.....	1191	1406
Letter of the Acting Secretary.....	1204	1420
Approval by the President.....	1204	1421

	Original.	Print.
23. Report of Railroad Commissioners, dated December 6, 1877, on Fifth Section, Southern Pacific Railroad, Act of March 3, 1871; Letter, dated January 19, 1878, C. Schurz, Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit 33 before Examiner Potter in Case No. 184; Defendants' Exhibit 47 before Examiner Potter in Case No. 600).....	1206	1422
Report of the Commissioners.....	1207	1422
Letter of the Secretary.....	1219	1438
Approval by the President.....	1220	1440
Exhibits before Everett J. Esselstyn, a Notary Public, at New York, in Cause No. 587:		
By-Laws of Texas and Pacific Railway Company, adopted at meeting of Directors May 24, 1871.....	1250	1474
Report of G. M. Dodge, Chief Engineer Texas and Pacific Railroad, to Thomas A. Scott, President, dated March 12, 1873.....	1254	1479
Exhibits before Special Examiner Longley in Cause No. 587:		
9A. Letter, dated March 22, 1871, Chas. Crocker, President Southern Pacific Railroad Co., to Secretary of the Interior (Defendants' Exhibit 31A before Examiner Longley in Case No. 600)....	1375	1618
9B. Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Willis Drummond, Commissioner of the General Land-office (Defendants' Exhibit 31B before Examiner Longley in Case No. 600).....	1379	1621

	Original.	Print.
29. Letter, dated April 21st, 1871, Willis Drummond, Commissioner, to Register and Receiver, Visalia, California (Defendants' Exhibit 311 before Examiner Longley in Case No. 600).....	1382	1624
30. Letter, dated April 21st, 1871, Willis Drummond, Commissioner, to Register and Receiver, Los Angeles, California (Defendants' Exhibit 312 before Examiner Longley in Case No. 600).	1385	1626
31. Map showing Land Grant made by Act of Congress of July 27, 1866, to Southern Pacific Railroad Company (Defendants' Exhibit 256 before Examiner Longley in Case No. 600).....	1387	1628
32. Letter of Instructions, dated February 17, 1874, C. Delano, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near Fernando (Defendants' Exhibit 313 before Examiner Longley in Case No. 600)....	1388	1629
33. Letter of Instructions, dated October 1, 1875, B. R. Cowen, Acting Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at a point in the N. E. ¼ sec. 24, T. 1 S., R. 9 W., S. B. M. (Defendants' Exhibit 314 before Examiner Longley in Case No. 600)....	1392	1632
34. Telegram of Instructions, dated June 17, 1876, Z. Chandler, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, fifty additional miles (Defendants' Exhibit 315 before Examiner Longley in Case No. 600).....	1395	1635
35. Letter of Instructions, dated February 6, 1877, Z. Chandler, Secretary of the Interior, to the		

	Original.	Print.
Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near San Fernando (Defendants' Exhibit 316 before Examiner Longley in Case No. 600).	1398	1637
36. Appointment, dated Oct. 27, 1877, of Commissioners to examine and report upon the Southern Pacific Railroad (Defendants' Exhibit 317 before Examiner Longley in Case No. 600)....	1401	1639
37. Letter of Instructions, dated October 27, 1877, C. Schurz, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad (Defendants' Exhibit 318 before Examiner Longley in Case No. 600).....	1405	1642
43. Page 409, Printed Report of the Commissioner of the General Landoffice for the year 1875 (Defendants' Exhibit 324 before Examiner Longley in Case No. 600).....	1409	1645
A1. Letter dated Feb. 24, 1887, Henry Beard, Attorney Southern Pacific Railroad of California, to Hon. L. Q. C. Lamar, Secretary of the Interior.....	1522	1753
A2. Resolution of the Southern Pacific Railroad Company, accepting the terms, conditions, and impositions of an Act of Congress of the United States incorporating the Texas Pacific Railroad Company, May 16th, 1871.....	1524	1755
Exhibits before Special Examiner Trevitt, in Consolidated Cause No. 675:		
A to Deposition of S. S. Marr, Form No. 1 of Certificate required by the Department of the Interior, to be used upon Maps of definite location.....	1861	2124

	Original.	Print
B to Deposition of S. S. Marr, Form No. 2 of Certificate required by the Department of the Interior, to be used upon Maps of definite location	1863	2126
A to Deposition of Arthur Martin, four letters, dated respectively July 1st, 1873, November 7, 1874, September 28, 1876, and October 1st, 1877, transmitting to Secretary of the Interior Annual Reports of Texas and Pacific Railway Company	1864	2127
B to Deposition of Arthur Martin, four letters from Department of the Interior, dated respectively August 1st, 1873, November 11th, 1874, September 28th, 1876, and October 2d, 1877, acknowledging receipt of Annual Reports of the Texas Pacific Railway Company	1869	2131
Exhibits before Special Examiner Potter, in Consolidated Cause No. 675:		
44. Blank Form, showing status of lands sold by Southern Pacific Railroad Company	1944	2208
46. Contract No. 11,322, dated December 8th, 1893, between the Southern Pacific Railroad Company and the Colorado River Irrigation Company	1946	2209
47. Blank Form of Contract for sale of unpatented Lands	1956	2221
48. Blank Form of Deed of unpatented lands	1963	2228
49. List No. 12, lands selected by the Southern Pacific Railroad Company, granted limits	1968	2234
50. List No. 40, lands selected by the Southern Pacific Railroad Company, granted limits, branch line	1978	2243

Original. Print.

51. List No. 49, lands selected by the Southern Pacific Railroad Company, granted limits, branch line.....1990 2254

52. List No. 64, lands selected by the Southern Pacific Railroad Company, granted limits, branch line.....1999 2262

53. List No. 70, lands selected by the Southern Pacific Railroad Company, granted limits, branch line.....2008 2269

54. List No. 89, lands selected by the Southern Pacific Railroad Company, granted limits, branch line.....2019 2279

55. Trust Mortgage, Southern Pacific Railroad Company, to D. O. Mills and Lloyd Tevis, Trustees, dated April 1, 1875 (Defendants' Exhibit 90 before Examiner Potter in Case No. 184).....2027 2286

56. Deed of Trust, Southern Pacific Railroad Company, of the first part, Southern Pacific Company, of the second part, and Central Trust Company of New York, of the third part, dated August 25, 1888 (Defendants' Exhibit 91 before Examiner Potter in Case No. 184).....2058 2326

57. Deposition de bene esse of William Salomon, on behalf of Defendants, in the case of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, taken before Patrick A. Nolan, Esq., Notary Public, in New York (Defendants' Exhibit 98 before Examiner Potter in Case No. 600).....2094 2371

Defendants' Exhibit before the Notary Public in New York, No. 1, Circular, dated March 8,

	Original.	Print.
1880, offering Bonds of the Southern Pacific Railroad for sale	2110	2390
58. Deposition of George T. Folsom, on behalf of Defendants, in the case of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., No. 600, before Stephen Potter, Esq., Special Examiner	2114	2395
59. Deposition of Frank S. Douty, on behalf of Defendants, in the case of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, before Stephen Potter, Esq., Special Examiner	2118	2399
60. Letters of record in the office of the Commissioner of the General Landoffice, relative to the preparation of a map to show the adopted line of location of its road by the Texas and Pacific Railroad Company	2121	2403
Letter dated April 24, 1896, Hoke Smith, Secretary, to the Commissioner of the General Landoffice	2122	2403
Letter, dated April 28, 1896, S. W. Lamoreux, Commissioner, to the Secretary of the Interior	2123	2405
Letter, dated April 28, 1896, Harry King, Chief of the Drafting Division, to the Commissioner of the General Landoffice	2124	2406
Letter, dated April 29, 1896, S. W. Lamoreux, Commissioner, to the Honorable the Secretary of the Interior	2126	2407
76. Statements showing lands in suit No. 675, United States of America vs. S. P. R. R. Co.,		

	Original.	Print.
outside of the Atlantic and Pacific Railroad grant, patented to the Southern Pacific Railroad Company, and unsold on July 23, 1896.....	2128	2410
Exhibits in Connection with Cross-examination of Defendants' witnesses:		
L on Cross-examination in Case No. 184, Extracts from the Minutes of the Board of Directors of the Southern Pacific Railroad Company.....	996	1190
M on Cross-examination in Case No. 184, Lease dated February 10, 1885, to Southern Pacific Company of Kentucky, by Southern Pacific Railroad Company of California and seven other companies..... 1134		1346
Exhibit "A" to Defendants' Answer in Cause No. 587, Trust Mortgage, Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, Trustees, dated April 1st, 1875, Resignation of Lloyd Tevis and Appointment of Gerrit L. Lansing, and Acceptance, April 18th, 1883.....	73	81
Exhibit "B" to Defendants' Answer in Cause No. 587, Deed of Trust, Southern Pacific Railroad Company, of the first part, Southern Pacific Company, of the second part, and Central Trust Company of New York, of the third part, dated August 25, 1888.....	114	131
Exhibit "A" to Answer of Defendant in Cause No. 662, Letter of April 21st, 1871, Willis Drummond, Commissioner of the General Landoffice, to Register and Receiver, Los Angeles, Cal.....	169	198
Exhibit "B" to Answer of Defendant in Cause No. 662, Amended Articles of Association of the Southern Pacific Railroad Company of April 11th, 1871.....	171	199

	Original.	Print.
Exhibit "A" to Joint and Several Answer of Defendants in Consolidated Cause No. 675, List of Contracts made by Defendant Southern Pacific Railroad Company, for the sale of lands involved in this suit	252	294
Exhibit 46, filed April 17, 1899, nunc pro tunc as of February 3d, 1898, No. 11,322, Contract for a Deed, Southern Pacific Railroad Company to the Colorado River Irrigation Company, dated December 8th, 1893	694	859
Exhibits—See Evidence for Complainants, and Evidence for Defendants.		
Exhibits introduced from case of United States vs. Southern Pacific Railroad Company et al., Nos. 67, 68, 69, Consolidated:		
Master's Exhibits:		
102 is DEFENDANTS' EXHIBIT NO. 2 before Special Examiner Potter, in Cause No. 587	733	935
125 is COMPLAINANTS' EXHIBIT NO. 1 before Special Examiner Longley, in Cause No. 587	1299	1528
132 is DEFENDANTS' EXHIBIT NO. 10 before Special Examiner Potter in Cause No. 587	1149	1363
195 is DEFENDANTS' EXHIBIT NO. 1 before Special Examiner Potter in Cause No. 587	727	891
Exhibits introduced from case of United States vs. The Southern Pacific Railroad Company et al., No. 184:		

	Original.	Print.
Plaintiff's Exhibits before Examiner Lamme:		
1 is COMPLAINANTS' EXHIBIT NO. 1 before Special Examiner Longley in Cause No. 587..... 1299		1528
2 is DEFENDANTS' EXHIBIT NO. 1 before Special Examiner Potter in Cause No. 587...	727	891
3 is DEFENDANTS' EXHIBIT NO. 2 before Special Examiner Potter in Cause No. 587...	733	935
24 is DEFENDANTS' EXHIBIT NO. 10 before Special Examiner Potter in Cause No. 587...1149		1363
45 is DEFENDANTS' EXHIBIT NO. 9 before Special Examiner Potter in Cause No. 587...1145		1359
Defendants' Exhibits before Examiner Potter:		
29 is DEFENDANTS' EXHIBIT NO. 19 before Special Examiner Potter in Cause No. 587..... 1155		1367
30 is DEFENDANTS' EXHIBIT NO. 20 before Special Examiner Potter in Cause No. 587..... 1168		1381
31 is DEFENDANTS' EXHIBIT NO. 21 before Special Examiner Potter in Cause No. 587..... 1179		1393
32 is DEFENDANTS' EXHIBIT NO. 22 before Special Examiner Potter in Cause No. 587..... 1190		1405
33 is DEFENDANTS' EXHIBIT NO. 23 before Special Examiner Potter in Cause No. 587..... 1206		1422
65 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587..... 849		1032

	Original.	Print.
66 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	850	1034
67 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	853	1037
68 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	854	1038
69 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	855	1039
70 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	859	1043
71 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	901	1077
72 is part of DEFENDANTS' EXHIBIT No. 3 before Special Examiner Potter in Cause No. 587	902	1078
73 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	903	1080
74 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	904	1081
75 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	905	1082

	Original.	Print.
76 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	906	1083
77 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	907	1084
78 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	909	1086
79 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	910	1087
80 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	911	1088
81 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	913	1089
82 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	917	1093
83 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	918	1094
84 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	919	1095
85 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	921	1096

	Original.	Print.
86 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	922	1097
87 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	923	1098
90 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	924	1100
91 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	955	1140
92 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	991	1185
93 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	992	1186
94 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	993	1187
95 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	994	1188
96 is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	995	1189
120 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1086	1295

	Original.	Print.
121 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1090	1299
122 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1093	1301
132 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1096	1303
133 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1099	1307
134 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1102	1310
135 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1105	1313
136 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1108	1316
137 is part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1112	1319
Exhibit "L" on Cross-examination of J. L. Wilcutt before Examiner Potter is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	996	1190
Exhibit "M" on Cross-examination of Gerrit L. Lansing before Examiner Potter is part of DEFENDANTS' EXHIBIT NO. 6 before Special Examiner Potter in Cause No. 587	1134	1346

	Original.	Print.
Reference to annual reports of the Auditor of railroad accounts is part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	1064	1268
Exhibits also introduced in case of The United States vs. Southern Pacific Railroad Company, et al., No. 600:		
Plaintiffs' Exhibits before Examiner Longley:		
3 is COMPLAINANTS' EXHIBIT NO. 1 before Special Examiner Longley in Cause No. 587	1299	1528
4 is COMPLAINANTS' EXHIBIT NO. 12 before Special Examiner Longley in Cause No. 587	1327	1560
5 is COMPLAINANTS' EXHIBIT NO. 13 before Special Examiner Longley in Cause No. 587	1336	1570
6 is DEFENDANTS' EXHIBIT NO. 1 before Special Examiner Potter in Cause No. 587.	727	891
7 is DEFENDANTS' EXHIBIT NO. 2 before Special Examiner Potter in Cause No. 587..	733	935
27 is DEFENDANTS' EXHIBIT NO. 10 before Special Examiner Potter in Cause No. 587	1149	1363
40 is DEFENDANTS' EXHIBIT NO. 9 before Special Examiner Potter in Cause No. 587	1145	1359
Defendants' Exhibits before Examiner Potter:		
43 is DEFENDANTS' EXHIBIT NO 29 before Special Examiner Potter in Cause No. 587	1155	1367

	Original.	Print.
44 is DEFENDANTS' EXHIBIT NO. 30 before Special Examiner Potter in Cause No. 587	1168	1381
45 is DEFENDANTS' EXHIBIT NO. 31 before Special Examiner Potter in Cause No. 587	1179	1393
46 is DEFENDANTS' EXHIBIT NO. 32 before Special Examiner Potter in Cause No. 587	1190	1405
47 is DEFENDANTS' EXHIBIT NO. 33 before Special Examiner Potter in Cause No. 587	1206	1422
98 is DEFENDANTS' EXHIBIT NO. 57 before Special Examiner Potter in Consolidated Cause No. 675	2094	2371
Defendants' Exhibits before Examiner Longley:		
31A is DEFENDANTS' EXHIBIT 9A before Special Examiner Longley in Cause No. 587	1375	1618
31B is DEFENDANTS' EXHIBIT 9B before Special Examiner Longley in Cause No. 587	1379	1621
256 is DEFENDANTS' EXHIBIT NO. 31 before Special Examiner Longley in Cause No. 587	1387	1628
311 is DEFENDANTS' EXHIBIT NO. 29 before Special Examiner Longley in Cause No. 587	1382	1624
312 is DEFENDANTS' EXHIBIT NO. 30 before Special Examiner Longley in Cause No. 587	1385	1626
313 is DEFENDANTS' EXHIBIT NO. 32 before Special Examiner Longley in Cause No. 587	1388	1629

	Original.	Print.
314 is DEFENDANTS' EXHIBIT NO. 33 before Special Examiner Longley in Cause No. 587	1392	1632
315 is DEFENDANTS' EXHIBIT NO. 34 before Special Examiner Longley in Cause No. 587	1395	1634
316 is DEFENDANTS' EXHIBIT NO. 35 before Special Examiner Longley in Cause No. 587	1398	1636
317 is DEFENDANTS' EXHIBIT NO. 36 before Special Examiner Longley in Cause No. 587	1401	1639
318 is DEFENDANTS' EXHIBIT NO. 37 before Special Examiner Longley in Cause No. 587	1405	1641
324 is DEFENDANTS' EXHIBIT NO. 43 before Special Examiner Longley in Cause No. 587	1409	1645
Final Decree	625	774
First Partial Report of Leo Longley, Esq., Special Examiner in Chancery in Cause No. 587	1268	1496
Folsom, George T., Deposition of, on behalf of Defendants, in the Cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company, et al., Defendants, No. 600, before Stephen Potter, Esq., Special Examiner, DEFENDANTS' EXHIBIT NO. 58 before Special Examiner Potter in Consolidated Cause No. 675	2114	2395
Form No. 1 of Certificate required by the Department of the Interior, to be used upon Maps of		

	Original.	Print.
definite location, DEFENDANTS' EXHIBIT A to Deposition of S. S. Marr before Special Examiner Trevitt in Consolidated Cause No. 675 1861		2124
Form No. 2 of Certificate required by the Department of the Interior to be used upon Maps of definite location, DEFENDANTS' EXHIBIT B to Deposition of S. S. Marr before Special Examiner Trevitt in Consolidated Cause No. 675 1863		2126
Form, blank, showing status of lands sold by Southern Pacific Railroad Company, DEFENDANTS' EXHIBIT NO. 44 before Special Examiner Potter in Consolidated Cause No. 675 1944		2208
Form, blank, of Contract for Sale of unpatented lands, DEFENDANTS' EXHIBIT NO. 47 before Special Examiner Potter in Consolidated Cause No. 675 1956		2221
Form, blank, of Deed of unpatented lands, DEFENDANTS' EXHIBIT NO. 48 before Special Examiner Potter in Consolidated Cause No. 675..... 1963		2228
Four Letters, dated respectively July 1, 1873, November 7, 1874, September 28, 1876, and October 1, 1877, transmitting to Secretary of the Interior Annual Reports of Texas and Pacific Railway Company, DEFENDANTS' EXHIBIT A to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675..... 1864		2127

Original. Print.

Four Letters from Department of the Interior, dated respectively August 1st, 1873, November 11th, 1874, September 28th, 1876, and October 2d, 1877, acknowledging receipt of Annual Reports of the Texas Pacific Railway Company, DEFENDANTS' EXHIBIT B to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675.....1869 2131

Granger, John T., Deposition of, on behalf of Complainants, before Special Examiner Smith in Consolidated Cause No. 765.....1726 1968

Hart, W. H. H., Deposition of, for the Defendants, before Special Examiner Potter in Consolidated Cause No. 675.....1907 2167

Hood, William, Deposition of, for the Defendants, before Special Examiner Potter in Consolidated Cause No. 675.....1920 2182

Instructions, Letter of, dated February 17, 1874, C. Delano, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near Fernando (Defendants' Exhibit 313 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 32 before Special Examiner Longley in Cause No. 587.....1388 1629

Instructions, Letter of, dated October 1, 1875, B. R. Cowen, Acting Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at a point in the N. E. quarter, Sec. 24, T. 1 S., R. 9 W., S. B. M. (Defendants' Exhibit 314 before Examiner Longley in Case

	Original.	Print.
No. 600), DEFENDANTS' EXHIBIT NO. 33 before Special Examiner Longley in Cause No. 587	1392	1632
Instructions, Telegram of, dated June 17, 1876, Z Chandler, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, 50 additional miles (Defendants' Exhibit 315 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 34 before Special Examiner Longley in Cause No. 587..	1395	1634
Instructions, Letter of, dated February 6, 1877, Z. Chandler, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near San Fernando (Defendants' Exhibit 316 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 35 before Special Examiner Longley in Cause No. 587	1398	1636
Instructions, Letter of, dated October 27, 1877, C. Schurz, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad (Defendants' Exhibit 318 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 37 before Special Examiner Longley in Cause No. 587...	1405	1641
Joint and Several Answer to the Amended Bill in Cause No. 587	50	55
Joint and Several Answer of Defendants to Complainants' Amended Bill of Complaint, in Consolidated Cause No. 675.....	230	268

Original. Print.

Lansing, Gerrit L., Deposition of, forming part of the Report of Stephen Potter, Special Examiner, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad et al., No. 184, DEFENDANTS' EXHIBIT NO. 6 before Special Examiner Potter in Cause No. 587.....1113 1320

Lease, dated February 10, 1885, to Southern Pacific Company of Kentucky, by Southern Pacific Railroad Company of California and seven other companies, Exhibit "M" before Special Examiner Potter on cross-examination of Gerrit L. Lansing, in the cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184, forming part of DEFENDANTS' EXHIBIT NO. 6 before Special Examiner Potter in Cause No. 587.....1134 1346

Letter, dated August 5, 1868, O. H. Browning, Secretary of the Interior, to President of the Southern Pacific Railroad Company (Defendants' Exhibit 66 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587..... 850 1034

Letter, dated September 26, 1868, W. T. Otto, Acting Secretary of the Interior, to T. G. Phelps, President Southern Pacific Railroad Company (Defendants' Exhibit 67 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587..... 853 1037

	Original.	Print.
Letter, dated October 2, 1868, W. T. Otto, Acting Secretary of the Interior, to C. P. Huntington, Attorney Southern Pacific Railroad Company (Defendants' Exhibit 71 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	901	1077
Letter, dated August 31, 1870, J. D. Cox, Secretary of the Interior, to Lloyd Tevis, President Southern Pacific Railroad Company (Defendants' Exhibit 68 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	854	1038
Letter, dated March 22, 1871, Charles Crocker, President Southern Pacific Railroad Company, to Secretary of the Interior (Defendants' Exhibit 31A before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 9A before Special Examiner Longley in Cause No. 587 1375		1619
Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Charles Crocker, President Southern Pacific Railroad Company (Defendants' Exhibit 65 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO 3 before Special Examiner Potter in Cause No. 587....	849	1032
Letter of Acting Secretary of the Interior to the Commissioner of the General Landoffice of April 3, 1871 (forming part of Plaintiffs' Exhibit 45 before Examiner Lamme in Case No. 184, and of Plaintiffs' Exhibit 40 before Ex-		

	Original.	Print.
aminer Leo Longley in Case No. 600), forming part of DEFENDANTS' EXHIBIT NO. 9 before Special Examiner Potter in Cause No. 587.	1146	1360
Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Charles Crocker, President Southern Pacific Railroad Company, DEFENDANTS' EXHIBIT NO. 11 before Special Examiner Potter in Cause No. 587	1152	1365
Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Willis Drummond, Commissioner of the General Landoffice (Defendants' Exhibit 31B before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 9B before Special Examiner Longley in Cause No. 587.....	1379	1622
Letter of April 21, 1871, Willis Drummond, Commissioner of the General Landoffice, to Register and Receiver, Los Angeles, Cal., EXHIBIT A to Answer of Defendant in Cause No. 662....	169	198
Letter, dated April 21, 1871, Willis Drummond, Commissioner, to Register and Receiver, Los Angeles, Cal. (Master's Exhibit 132 in Cause Nos. 67, 68, and 69, consolidated; Plaintiffs' Exhibit 24 before Examiner Lamme in Case No. 184; Plaintiff's Exhibit 27 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 10 before Special Examiner Potter in Cause No. 587.....	1149	1363
Letter, dated April 21, 1871, Willis Drummond, Commissioner, to Register and Receiver, Visalia, California (Defendants' Exhibit 311		

Original. Print.

before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 29 before Special Examiner Longley in Cause No. 587..1382 1625

Letter, dated April 21, 1871, Willis Drummond, Commissioner, to Register and Receiver, Los Angeles, California (Defendants' Exhibit 312 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 30 before Special Examiner Longley in Cause No. 587...1385 1626

Letter, dated August 15, 1871, Marshall O. Roberts, President, and George C. Buell, Chief Engineer, to W. P. Talboye, Assistant Secretary, forming part of COMPLAINANTS' EXHIBIT NO. 10 before Special Examiner Longley in Cause No. 587.....1315 1546

Letter, dated September 2, 1871, C. Delano, Secretary, to Hon. Willis Drummond, Commissioner General Landoffice, forming part of COMPLAINANTS' EXHIBIT NO. 10 before Special Examiner Longley in Cause No. 587..1314 1545

Letter, dated September 27, 1871, W. W. Curtis, Acting Commissioner to Register and Receiver, Los Angeles, California, forming part of COMPLAINANTS' EXHIBIT NO. 3 before Special Examiner Longley in Cause No. 587..1308 1539

Letter, dated September 27, 1871, W. W. Curtis, Acting Commissioner, to Register and Receiver, Los Angeles, California, COMPLAINANTS' EXHIBIT NO. 19 before Special Examiner Longley in Cause No. 587.....1438 1668

Letter, dated November 16, 1871, Willis Drummond, Commissioner, to Register and Receiver, Pres-

	Original.	Print.
cott, Arizona, COMPLAINANTS' EXHIBIT NO. 20 before Special Examiner Longley in Cause No. 587	1441	1670
Letter, dated April 1, 1873, Alfred James, Register, to Hon. Willis Drummond, Commissioner General Landoffice, COMPLAINANTS' EXHIBIT NO. 23 before Special Examiner Longley in Cause No. 587	1478	1713
Letter, dated July 1, 1873, Thomas A. Scott, President, to Hon. C. Delano, Secretary of the Interior, forming part of COMPLAINANTS' EXHIBIT NO. 24 before Special Examiner Longley in Cause No. 587	1481	1715
Letter, dated July 1, 1873, Thomas A. Scott, President Texas and Pacific Railway Company, to Hon. C. Delano, Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT A to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675	1865	2128
Letter, dated August 1, 1873, B. R. Cowen, Acting Secretary of the Interior, to Thomas A. Scott, President of Texas and Pacific Railway Company, forming part of DEFENDANTS' EXHIBIT B to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675	1870	2132
Letter of Instructions, dated February 17, 1874, C. Delano, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near Fernando (Defendants' Exhibit 313 before Examiner Longley in Case No. 600), DE-		

Original. Print.

FENDANTS' EXHIBIT NO. 32 before Special Examiner Longley in Cause No. 587.....1388 1629

Letter, dated May 8, 1874, B. R. Cowen, Acting Secretary, to the President of the United States (forming part of Defendants' Exhibit 29 before Examiner Potter in Case No. 184, and of Defendants' Exhibit 43 before Examiner Potter in Case No. 600), forming part of DEFENDANTS' EXHIBIT NO. 19 before Special Examiner Potter in Cause No. 587.....1166 1380

Letter, dated May 11, 1874, B. R. Cowen, Acting Secretary of the Interior, to W. W. Curtis, Acting Commissioner of the General Landoffice (Defendants' Exhibit 132 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587.....1096 1304

Letter, dated November 7, 1874, Thomas A. Scott, President Texas and Pacific Railway Company, to Hon. C. Delano, Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT A to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675 ....1866 2128

Letter, dated November 11, 1874, B. R. Cowen, Acting Secretary of the Interior, to Thomas A. Scott, President of Texas and Pacific Railway Company, forming part of DEFENDANTS' EXHIBIT B to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675.....1871 2132

Letter of Instructions, dated October 1, 1875, B. R. Cowen, Acting Secretary of the Interior, to

Original. Print.

Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at a point in the N. E. quarter, Sec. 24, T. 1 S., R. 9 W., S. B. M. (Defendants' Exhibit 314 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 33 before Special Examiner Longley in Cause No. 587 ....1392 1632

Letter, dated November 8, 1875, Z. Chandler, Secretary of the Interior, to the President of the United States (forming part of Defendants' Exhibit 30 before Examiner Potter in Cause No. 184, and of Defendants' Exhibit 44 before Examiner Potter in Cause No. 600), forming part of DEFENDANTS' EXHIBIT NO. 20 before Special Examiner Potter in Cause No. 587...1177 1392

Letter, dated November 13, 1875, Z. Chandler, Secretary of the Interior, to S. S. Burdett, Commissioner General Landoffice (Defendants' Exhibit 133 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587.....1099 1307

Letter, dated July 10, 1876, Z. Chandler, Secretary, to the President of the United States (forming part of Defendants' Exhibit 31 before Examiner Potter in Case No. 184, and of Defendants' Exhibit 45 before Examiner Potter in Case No. 600), forming part of DEFENDANTS' EXHIBIT NO. 21 before Special Examiner Potter in Cause No. 587.....1188 1404

Letter, dated July 22, 1876, Z. Chandler to J. A. Williamson, Commissioner General Landoffice

	Original.	Print.
(Defendants' Exhibit 134 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587.....	1102	1310
Letter, dated September 1, 1876, Z. Chandler, Secretary of the Interior, to Charles Crocker, President Southern Pacific Railroad Company (Defendants Exhibit 69 before Examiner Potter in Case No. 184) forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	855	1039
Letter, dated September 28, 1876, Thomas A. Scott, President Texas Pacific Railway, to Hon. Z. Chandler, Secretary of the Interior, forming part of COMPLAINANTS' EXHIBIT NO. 25 before Special Examiner Longley in Cause No. 587	1499	1730
Letter, dated September 28, 1876, Thomas A. Scott, President Texas and Pacific Railway, to Hon. Z. Chandler, Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT A to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675	1867	2129
Letter, dated September 28, 1876, Charles T. Gorham, Acting Secretary of the Interior, to Thomas A. Scott, President Texas and Pacific Railway Company, forming part of DEFENDANTS' EXHIBIT "B" to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675.....	1872	2133
Letter of Instructions, dated February 6, 1877, Z. Chandler, Secretary of the Interior, to the Com-		

Original. Print.

missioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near San Fernando (Defendants' Exhibit 316 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 35 before Special Examiner Longley in Cause No. 587...1398 1637

Letter, dated March 1, 1877, Charles T. Gorham, Acting Secretary, to the President of the United States (forming part of Defendants' Exhibit 32 before Examiner Potter in Case No. 184, and of Defendants' Exhibit 46 before Examiner Potter in Case No. 600), forming part of DEFENDANTS' EXHIBIT NO. 22 before Special Examiner Potter in Cause No. 587....1204 1420

Letter, dated March 3, 1877, Charles T. Gorham, Acting Secretary of the Interior, to J. A. Williamson, Commissioner General Landoffice (Defendants' Exhibit 135 before Examiner Potter in Case No. 184) forming part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587.....1105 1313

Letter, dated October 1, 1877, Thomas A. Scott, President Texas and Pacific Railway Company to Hon. Carl Schurz, Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT NO. 26 before Special Examiner Longley in Cause No. 587.....1510 1741

Letter, dated October 1, 1877, Thomas A. Scott, President Texas and Pacific Railway Company, to Hon. Carl Schurz, Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT A to Deposition of Arthur Martin

	Original.	Print.
before Special Examiner Trevitt in Consolidated Cause No. 675	1868	2130
Letter, dated October 2, 1877, A. Bell, Acting Secretary of the Interior, to Thomas A. Scott, President of Texas and Pacific Railway Company, forming part of DEFENDANTS' EXHIBIT B to Deposition of Arthur Martin before Special Examiner Trevitt in Consolidated Cause No. 675	1873	2133
Letter of Instructions, dated October 27, 1877, C. Schurz, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad (Defendants' Exhibit 318 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 37 before Special Examiner Longley in Cause No. 587	1405	1642
Letter, dated January 19, 1878, C. Schurz, Secretary, to the President of the United States (forming part of Defendants' Exhibit 33 before Examiner Potter in Case No. 184, and of Defendants' Exhibit No. 47 before Examiner Potter in Case No. 600), forming part of DEFENDANTS' EXHIBIT NO. 23 before Special Examiner Potter in Cause No. 587	1219	1438
Letter, dated January 30, 1878, C. Schurz, Secretary of the Interior, to J. A. Williamson, Commissioner General Landoffice (Defendants' Exhibit 136 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1108	1316

	Original.	Print.
Letter, dated July 13, 1878, Auditor of Railroad Accounts to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt before Examiner Potter in Case No. 184 as Defendants' Exhibit 70, forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	859	1043
Letter, dated July 22, 1878, Auditor of Railroad Accounts to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt before Examiner Potter in Case No. 184 as Defendants' Exhibit 70, forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	861	1044
Letter, dated July 26, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587.	862	1045
Letter, dated July 29, 1878, Auditor of Railroad Accounts to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587.	863	1045

	Original.	Print.
Letter, dated August 1, 1878, Auditor of Railroad Accounts to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	864	1046
Letter, dated August 27, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	865	1047
Letter, dated September 3, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	866	1048
Letter, dated September 9, 1878, Auditor of Railroad Accounts to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit		

	Original.	Print.
No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	867	1048
Letter, dated September 20, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	868	1049
Letter, dated September 27, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	869	1050
Letter, dated October 1, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter, in Cause No. 587	870	1051
Letter, dated October 4, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-		

Original. Print.

seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 .... 871 1051

Letter, dated October 7, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 .... 872 1052

Letter, October 10, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 .... 873 1053

Letter, dated October 12, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 .... 874 1053

Original. Print.

Letter, dated October 15, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 ..... 875 1054

Letter, dated October 16, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 ..... 876 1055

Letter dated October 17, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 ..... 877 1055

Letter, dated October 19, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Ex-

	Original.	Print.
hibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	878	1056
Letter, dated October 22, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	879	1057
Letter dated October 24, 1878, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	880	1057
Letter, dated April 17, 1879, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587..	881	1058
Letter, dated May 17, 1879, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-		

	Original.	Print.
seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	882	1059
Letter, dated September 1, 1879, Auditor of Railroad Accounts, to President of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in cause No. 587	884	1061
Letter, dated February 28, 1880, Auditor of Railroad Accounts, to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	886	1063
Letter, dated March 18, 1880, Auditor of Railroad Accounts to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	888	1065

Original. Print.

Letter, dated March 22, 1880, Auditor of Railroad Accounts, to General Accountant of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 .... 889 1066

Letter, dated May 6, 1880, Auditor of Railroad Accounts to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 .... 890 1067

Letter, dated July 2, 1880, Auditor of Railroad Accounts to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 ..... 891 1068

Letter, dated July 22, 1880, Auditor of Railroad Accounts to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit

Original. Print.

No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 ..... 892 1069

Letter, dated September 7, 1880, Auditor of Railroad Accounts to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 ..... 893 1070

Letter, dated September 18, 1880, Auditor of Railroad Accounts to General Accountant of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587..... 894 1071

Letter and Decision, dated February 5, 1881, J. A. Williamson, Commissioner, to Register and Receiver, Los Angeles, California, COMPLAINANTS' EXHIBIT NO. 16, before Special Examiner Longley in Cause No. 587 .....1428 1660

Letter, dated March 1, 1881, Auditor of Railroad Accounts, to General Accountant of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Ex-

	Original.	Print.
hibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	895	1072
Letter dated March 19, 1881, Commissioner of Railroads, to General Accountant of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	896	1073
Letter, dated April 19, 1881, Commissioner of Railroads, to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	897	1074
Letter, dated May 12, 1881, Commissioner of Railroads to Secretary of Southern Pacific Railroad Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit No. 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Stephen Potter in Cause No. 587	898	1075
Letter, dated May 12, 1881, Commissioner of Railroads to Secretary of Southern Pacific Railroad		

	Original.	Print.
Company, being one of thirty-seven letters introduced in connection with the Deposition of J. L. Willcutt, before Examiner Potter, in Case No. 184, as Defendants' Exhibit 70; forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	899	1076
Letter, dated November 2, 1881, Jos. K. McCammon, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 72, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	902	1078
Letter, dated February 1, 1882, Jos. K. McCammon, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 73, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	903	1080
Letter, dated May 20, 1882, W. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 74, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	904	1081
Letter, dated November 9, 1882, Wm. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 75, before Examiner Potter in Case No. 184), forming part of DE-		

	Original.	Print.
FENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	905	1082
Letter, dated May 22, 1883, H. M. Teller, Secretary, to the Commissioner of the General Landoffice, COMPLAINANTS' EXHIBIT NO. 14, before Special Examiner Longley in Cause No. 587..... 1421		1654
Letter, dated August 11, 1883, W. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 76, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	906	1083
Letter, dated April 3, 1884, F. B. Pickerell, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 77, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587.....	907	1084
Letter, dated September 6, 1884, Thos. J. Walker, in charge of office of Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 78, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587	909	1086
Letter, and Decision, dated September 25, 1884, H. M. Teller, Secretary, to the Commissioner of the General Landoffice, COMPLAINANTS' EXHIBIT NO. 17, before Special Examiner Longley in Cause No. 587..... 1431		1662

	Original.	Print.
Letter, dated December 12, 1884, M. L. Joslyn, Acting Secretary, to the Commissioner of the General Landoffice, COMPLAINANTS' EXHIBIT NO. 18, before Special Examiner Longley in Cause No. 587 1434		1665
Letter, dated February 10, 1885, F. B. Pickerell, to J. W. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit 79, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 910		1087
Letter, dated May 22, 1885, J. E. Johnston, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 80, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter, in Cause No. 587 911		1088
Letter, dated December 21, 1885, J. E. Johnston, Commissioner of Railroads, to Charles Crocker, President Southern Pacific R. R. Co. (Defendants' Exhibit 81, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587 913		1089
Letter, dated August 30, 1886, Edward Herrick, in charge of office of Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 82, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3, before Special Examiner Potter in Cause No. 587... 917		1093

	Original.	Print.
Letter, dated February 24, 1887, Henry Beard, Attorney Southern Pacific Railroad of California, to Hon. L. Q. C. Lamar, Secretary of the Interior, DEFENDANTS' EXHIBIT A1 before Special Examiner Longley in Cause No. 587	1522	1753
Letter, dated May 7, 1887, Edward Herrick, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 83, before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	918	1094
Letter, dated May 7, 1887, Edward Herrick, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 84 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	919	1095
Letter, dated September 17, 1887, Edward Herrick, for the Commissioner of Railroads, to J. *H.* Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 85 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	921	1096
Letter, dated April 2, 1888, Edward Herrick, for the Commissioner of Railroads, to J. *H.* Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 86 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	922	1097

	Original.	Print.
Letter, dated June 4, 1889, Edward Herrick, in charge of office of Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific R. R. Co. (Defendants' Exhibit No. 87 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	923	1098
Letter, dated October 24, 1889, W. M. Thompson, in charge of office of Commissioner of Railroads, to G. L. Lansing, Controller Southern Pacific Co. (Defendants' Exhibit No. 92 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	991	1185
Letter, dated October 21, 1890, W. M. Thompson, in charge of office of Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Railroad Co. (Defendants' Exhibit No. 93 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587.....	992	1186
Letter, dated January 8, 1891, Lewis A. Groff, Commissioner, to Register and Receiver, Los Angeles, Cal., COMPLAINANTS' EXHIBIT A6 before H. S. Rollins, Notary Public, in Consolidated Cause No. 675.....	1603	1848
Letter, dated October 21, 1891, W. M. Thompson, bookkeeper of the Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company (Defendants' Exhibit No. 94 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT		

	Original.	Print.
NO. 3 before Special Examiner Potter in Cause No. 587	993	1187
Letter, dated September 28, 1892, W. M. Thompson, bookkeeper Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company (Defendants' Exhibit No. 95 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	994	1188
Letter, dated September 16, 1893, F. E. Storm, bookkeeper of the Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company (Defendants' Exhibit No. 96 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 3 before Special Examiner Potter in Cause No. 587	995	1189
Letter, dated October 4, 1893, Wm. H. Sims, Acting Secretary of the Interior, to D. A. Chambers (Defendants' Exhibit No. 137 before Examiner Potter in Case No. 184), forming part of DEFENDANTS' EXHIBIT NO. 4 before Special Examiner Potter in Cause No. 587	1112	1319
Letter, dated September 11, 1894, S. W. Lamoreux, Commissioner, to C. P. Huntington, Esq., President Southern Pacific R. R. Co., forming part of COMPLAINANTS' EXHIBIT A9 before H. S. Rollins, Notary Public, in Consolidated Cause No. 675	1633	1863
Letter, dated April 24, 1896, Hoke Smith, Secretary, to the Commissioner of the General Land-office, forming part of DEFENDANTS' EX-		

	Original.	Print.
HIBIT NO. 60 before Special Examiner Potter in Consolidated Cause No. 675	2122	2403
Letter, dated April 28, 1896, S. W. Lamoreux, Commissioner, to the Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT NO. 60 before Special Examiner Potter in Consolidated Cause No. 675	2123	2405
Letter, dated April 28, 1896, Harry King, Chief of the Drafting Division, to the Commissioner of the General Landoffice, forming part of DEFENDANTS' EXHIBIT NO. 60 before Special Examiner Potter in Consolidated Cause No. 675	2124	2406
Letter, dated April 29, 1896, S. W. Lamoreux, Commissioner, to the Honorable the Secretary of the Interior, forming part of DEFENDANTS' EXHIBIT NO. 60 before Special Examiner Potter in Consolidated Cause No. 675	2126	2407
Letters of record in the office of the Commissioner of the General Landoffice, relative to the preparation of a Map to show the adopted line of location of its road by the Texas and Pacific Railroad Company, DEFENDANTS' EXHIBIT NO. 60 before Special Examiner Potter in Consolidated Cause No. 675	2121	2403
List of Contracts, made by Defendant Southern Pacific Railroad Company, for the sale of lands involved in this suit, EXHIBIT "A" to Joint and Several Answer of Defendants to Complainants' Amended Bill of Complaint in Consolidated Cause No. 675	252	294

	Original.	Print.
List No. 12, lands selected by the Southern Pacific Railroad Company, granted limits, DEFENDANTS' EXHIBIT NO. 49 before Special Examiner Potter in Consolidated Cause No. 675..	1968	2234
List No. 40, lands selected by the Southern Pacific Railroad Company, granted limits, branch line, DEFENDANTS' EXHIBIT NO. 50 before Special Examiner Potter, in Consolidated Cause No. 675.....	1978	2243
List No. 49, lands selected by the Southern Pacific Railroad Company, granted limits, branch line, DEFENDANTS' EXHIBIT NO. 51 before Special Examiner Potter in Consolidated Cause No. 675.....	1990	2254
List No. 64, lands selected by the Southern Pacific Railroad Company, granted limits, branch line, DEFENDANTS' EXHIBIT NO. 52 before Special Examiner Potter in Consolidated Cause No. 675.....	1999	2262
List No. 70, lands selected by the Southern Pacific Railroad Company, granted limits, branch line, DEFENDANTS' EXHIBIT NO. 53 before Special Examiner Potter, in Consolidated Cause No. 675.....	2008	2269
List No. 89, lands selected by the Southern Pacific Railroad Company, granted limits, branch line, DEFENDANTS' EXHIBIT NO. 54 before Special Examiner Potter in Consolidated Cause No. 675.....	2019	2279
Madden, Jerome, Deposition of, for the Defendants, before Special Examiner Potter, in Consolidated Cause No. 675.....	1884	2142

Original. Print.

Madden, Jerome, Deposition of, recalled for the Defendants, before Special Examiner Potter, in Consolidated Cause No. 675.....1889 2146

Map of general route of Southern Pacific Railroad, from Tehacapi Pass, by way of Los Angeles, to the Colorado River (forming part of Plaintiffs' Exhibit No. 45 before Examiner Lamme, in Case No. 184, and of Plaintiffs' Exhibit No. 40 before Examiner Leo Longley in Case No. 600), forming part of DEFENDANTS' EXHIBIT NO. 9 before Special Examiner Potter in Cause No. 587.....1148 1362

Map of the Texas Pacific Railroad, with twenty miles' limits in California, forming part of COMPLAINANTS' EXHIBIT NO. 3 before Special Examiner Longley in Cause No. 587.....1310 1542

Map of reserved lands on proposed location of the Texas Pacific Railroad, under Act of Congress of March 3d, 1871, from El Paso, Texas, to the Bay of San Diego, California, forming part of COMPLAINANTS' EXHIBIT NO. 10 before Special Examiner Longley in Cause No. 587...1316 1547

Map showing land grant made by Act of Congress of July 27, 1866, to Southern Pacific Railroad Company (Defendants' Exhibit No. 256 before Examiner Longley in Case No. 600), DEFENDANTS' EXHIBIT NO. 31 before Special Examiner Longley in Cause No. 587.....1387 1628

Map of the Texas and Pacific Railway and its connections through Texas, New Mexico, Arizona, and California, accompanying the Report of the Texas and Pacific Railway Company for the

	Original.	Print.
year ending June 30, 1877, COMPLAINANTS' EXHIBIT NO. 27 before Special Examiner Longley in Cause No. 587	1520	1751
Map of the Texas and Pacific Railway and its connections, filed with and accompanying the Annual Report of the Texas Pacific Railway Company to the Secretary of the Interior, for the year ending June 30, 1876, COMPLAINANTS' EXHIBIT NO. 29 before Special Examiner Longley in Cause No. 587	1544	1773
Map of surveys between Pima villages, Arizona, and San Diego, Cal., Texas and Pacific Railway, California Division, COMPLAINANTS' EXHIBIT NO. 1 before Special Examiner Parker, in Consolidated Cause No. 675	1818	2073
Map from east line of range 6, thence to the Pacific Ocean, showing line of route by San Gorgonio Pass and line "D" to San Diego, COMPLAINANTS' EXHIBIT NO. 2 before Special Examiner Parker, in Consolidated Cause No. 675	1819	2074
Map of Texas and Pacific Railway, Arizona Division, from Fort Yuma to Pima villages, COMPLAINANTS' EXHIBIT NO. 3 before Special Examiner Parker, in Consolidated Cause No. 675	1820	2075
Map of surveys between Pima villages, Arizona, and San Diego, Cal., Texas and Pacific Railway, California Division, COMPLAINANTS' EXHIBIT "A" before Special Examiner Rollins, in Consolidated Cause No. 675	1837	2097
Marr, Samuel S., Deposition of, on behalf of Defendants, before Special Examiner Trevitt, in Consolidated Cause No. 675	1857	2121

	Original.	Print.
Marshal's Return of Subpoena in Cause No. 587....	13	16
Marshal's Return of Subpoena in Cause No. 587....	16	19
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67. Letter, dated September 26, 1868, W. T. Otto, Acting Secretary of the Interior, to T. G. Phelps, President Southern Pacific Railroad Company.....	853	1037
68. Letter, dated August 31, 1870, J. D. Cox, Secretary of the Interior, to Lloyd Tevis,		

	Original.	Print.
President Southern Pacific Railroad Company.....	854	1038
69. Letter, dated September 1, 1876, Z. Chandler, Secretary of the Interior, to Charles Crocker, President Southern Pacific Railroad Company	855	1039
70. Series of thirty-seven letters, dated respectively: July 13, 1878; July 22, 1878; July 26, 1878; July 29, 1878; August 1, 1878; August 27, 1878; September 3, 1878; September 9, 1878; September 20, 1878; September 27, 1878; October 1, 1878; October 4, 1878; October 7, 1878; October 10, 1878; October 12, 1878; October 15, 1878; October 16, 1878; October 17, 1878; October 19, 1878; October 22, 1878; October 24, 1878; April 17, 1879; May 17, 1879; September 1, 1879; February 28, 1880; March 18, 1880; March 22, 1880; May 6, 1880; July 2, 1880; July 22, 1880; September 7, 1880; September 18, 1880; March 1, 1881; March 19, 1881; April 19, 1881; May 12, 1881; May 12, 1881—Auditor of Railroad Accounts and Commissioner of Railroads to President, Secretary and General Accountant, Southern Pacific Railroad Company...	859	1043
71. Letter, dated October 2, 1868, W. T. Otto, Acting Secretary of the Interior, to C. P. Huntington, Attorney Southern Pacific Railroad Company	901	1077
72. Letter, dated November 2, 1881, Joseph K. McCammon, Commissioner of Railroads, to		

	Original	Print.
J. L. Willcutt, Secretary Southern Pacific Railroad Company	902	1078
73. Letter, dated February 1, 1882, Joseph K. McCammon, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	903	1080
74. Letter, dated May 20, 1882, W. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	904	1081
75. Letter, dated November 9, 1882, William H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	905	1082
76. Letter, dated August 11, 1883, W. H. Armstrong, Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	906	1083
77. Letter, dated April 3, 1884, F. B. Pickerell, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	907	1084
78. Letter, dated September 6, 1884, Thomas J. Walker, in charge of office of Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company.....	909	1086
79. Letter, dated February 10, 1885, F. B. Pickerell to J. L. Willcutt, Secretary Southern Pacific Railroad Company.....	910	1087
80. Letter, dated May 22, 1885, J. E. Johnston, Commissioner of Railroads, to J. L. Willcutt,		

	Original.	Print.
Secretary Southern Pacific Railroad Company	911	1088
81. Letter, dated December 21, 1885, J. E. Johnston, Commissioner of Railroads, to Charles Crocker, President Southern Pacific Railroad Company	913	1089
82. Letter, dated August 30, 1886, Edward Herrick, in charge of office of Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company.....	917	1093
83. Letter, dated May 7, 1887, Edward Herrick, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	918	1094
84. Letter, dated May 7, 1887, Edward Herrick, for the Commissioner of Railroads, to J. L. Willcutt, Secretary Southern Pacific Railroad Company	919	1095
85. Letter, dated September 17, 1887, Edward Herrick, for the Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific Railroad Company	921	1096
86. Letter, dated April 2, 1888, Edward Herrick, for the Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific Railroad Company	922	1097
87. Letter, dated June 4, 1889, Edward Herrick, in charge of office of Commissioner of Railroads, to J. H. Willcutt, Secretary Southern Pacific Railroad Company.....	923	1098

	Original.	Print.
90. Trust Mortgage, Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, dated April 1, 1875.....	924	1100
91. Deed of Trust, Southern Pacific Railroad Company, of the first part, Southern Pacific Company, of the second part, and Central Trust Company of New York, of the third part, dated August 25, 1888.....	955	1140
92. Letter, dated October 24, 1889, W. M. Thompson, in charge of office of Commissioner of Railroads, to G. L. Lansing, Controller Southern Pacific Company.....	991	1185
93. Letter, dated October, 21, 1890, W. M. Thompson, in charge of office of Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Railroad Company	992	1186
94. Letter, dated October 21, 1891, W. M. Thompson, Bookkeeper of the Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company	993	1187
95. Letter, dated September 28, 1892, W. M. Thompson, Bookkeeper Commissioner of Railroads, to G. L. Lansing, Secretary and Controller Southern Pacific Company.....	994	1188
96. Letter, dated September 16, 1893, F. E. Storm, Bookkeeper of the Commissioner of Railroads, to G. L. Lansing, Secretary and Controller, Southern Pacific Company....	995	1189

	Original.	Print.
Exhibit "L" on cross-examination: Extracts from the Minutes of the Board of Directors, Southern Pacific Railroad Company.....	996	1190
Reference to the Annual Reports of the Auditor of Railroad Accounts, made to the Secretary of the Interior, for the years ending June 30, 1880; June 30, 1881; June 30, 1882; June 30, 1882; June 30, 1883; June 30, 1884; June 30, 1885; June 30, 1886; June 30, 1887; June 30, 1888; June 30, 1889; June 30, 1890 June 30, 1891; June 30, 1892....1064		1268
4. Deposition of Charles J. Wilder, forming part of the Report of Stephen Potter, Special Examiner, in the Cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al, Defendants, No. 184 1069		1274
Defendants' Exhibits before Special Examiner Potter:		
120. Statement of Account: The United States to the Southern Pacific Company, Pacific System, for transportation furnished in months of September, October, and November, 1889 1086		1295
121. Request for transportation made to the Southern Pacific Company by Quartermaster's Department, United States Army.1090		1299
122. Request for transportation made to the Southern Pacific Railroad Company by Quartermaster's Department, United States Army 1093		1301

	Original.	Print.
132. Letter, dated May 11, 1874, B. R. Cowen, Acting Secretary of the Interior, to W. W. Curtis, Acting Commissioner of the General Landoffice	1096	1304
133. Letter, dated November 13, 1875, Z. Chandler, Secretary of the Interior, to S. S. Burdett, Commissioner General Landoffice	1099	1307
134. Letter, dated July 22, 1876, Z. Chandler to J. A. Williamson, Commissioner General Landoffice	1102	1310
135. Letter, dated March 3, 1877, Charles T. Gorham, Acting Secretary of the Interior, to J. A. Williamson, Commissioner General Landoffice	1105	1313
136. Letter, dated January 30, 1878, C. Schurz, Secretary of the Interior, to J. A. Williamson, Commissioner General Landoffice	1108	1316
137. Letter, dated October 4, 1893, William H. Sims, Acting Secretary of the Interior, to D. A. Chambers	1112	1319
6. Deposition of Gerrit L. Lansing, forming part of the Report of Stephen Potter, Special Examiner, in the Cause of The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184	1113	1320
Exhibit "M" before Special Examiner Stephen Potter, on cross-examination, Lease, dated February 10, 1885, to Southern Pacific Company of Kentucky, by Southern Pacific Railroad Company of California and seven other companies	1134	1346

Original. Print.

8. Deposition of Charles F. Crocker, forming part of the Report of Stephen Potter, Special Examiner, in the cause of the United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 184.....1142 1355

9. Map of General Route of Southern Pacific Railroad from Tehachapi Pass, by way of Los Angeles, to the Colorado River; also Letter of Acting Secretary of the Interior to the Commissioner of the General Landoffice of April 3, 1871 (Plaintiffs' Exhibit No. 45 before Examiner Lamme in Case No. 184; Plaintiffs' Exhibit No. 40 before Examiner Leo Longley in Case No. 600)..... ....1145 1359

Certificate of Commissioner of General Landoffice..... ....1145 1359

Letter of Acting Secretary.....1146 1360

Map..... ....1148 1362

10. Letter, dated April 21, 1871, Willis Drummond, Commissioner, to Register and Receiver, Los Angeles, Cal. (Master's Exhibit No. 132 in Case Nos. 67, 68, and 69 consolidated; Plaintiffs' Exhibit No. 24 before Examiner Lamme in Case No. 184; Plaintiffs' Exhibit No. 27 before Examiner Longley in Case No. 600).....1149 1363

11. Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Charles Crocker, President Southern Pacific R. R. Co. (Defendants' Exhibit No. 65 before Examiner Potter in Case No. 184).....1152 1365

12. Resolution of the Southern Pacific Railroad Company, accepting terms, conditions, and im-

	Original.	Print.
positions of the Act of Congress approved March 3, 1871, on file in the Department of the Interior	1153	1366
19. Report of Railroad Commissioners, dated April 15, 1874, on First Section Southern Pacific Railroad, Act of March 3, 1871; Letter, dated May 8, 1874, B. R. Cowen, Acting Secretary, to the President of the United States; and approval by the President of the United States (Defendants' Exhibit No. 29 before Examiner Potter in Case No. 184; Defendants' Exhibit No. 43 before Examiner Potter in Case No. 600)	1155	1367
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Letter of the Secretary	1166	1380
Approval by the President	1166	1381
20. Report of Railroad Commissioners, dated October 21, 1875, on Second Section of the Southern Pacific Railroad, Act of March 3, 1871; Letter, dated Nov. 8, 1875, Z. Chandler, Secretary, to the President of the United States, and Approval by the President of the United States (Defendants' Exhibit No. 30 before Examiner Potter in Cause No. 184; Defendants' Exhibit No. 44 before Examiner Potter in Cause No. 600)	1168	1381
Report of the Commissioners	1169	1381
Letter of the Secretary	1177	1392
Approval by the President	1177	1393
21. Report of Railroad Commissioners, dated June 22, 1876, on Third Section, Southern Pacific Railroad, Act of March 3, 1871; Letter dated		

	Original.	Print.
July 10, 1876, Z. Chandler, Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit No. 31 before Examiner Potter in Case No. 184; Defendants' Exhibit No. 45 before Examiner Potter in Case No. 600).....	1179	1393
Report of the Commissioners.....	1180	1394
Letter of the Secretary.....	1188	1404
Approval by the President.....	1188	1405
22. Report of Railroad Commissioners, dated February 17, 1877, on Fourth Section Southern Pacific Railroad, Act of March 3, 1871; Letter, dated March 1, 1877, Chas. T. Gorham, Acting Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit No. 32 before Examiner Potter in Case No. 184; Defendants' Exhibit No. 46 before Examiner Potter in Case No. 600).....	1190	1405
Report of the Commissioners.....	1191	1406
Letter of the Acting Secretary.....	1204	1420
Approval by the President.....	1204	1421
23. Report of Railroad Commissioners, dated December 6, 1877, on Fifth Section Southern Pacific Railroad, Act of March 3, 1871; Letter, dated January 19, 1878, C. Schurz, Secretary, to the President of the United States; and Approval by the President of the United States (Defendants' Exhibit No. 33 before Examiner Potter in Case No. 184; Defendants' Exhibit No. 47 before Examiner Potter in Case No. 600).....	1206	1422
Report of the Commissioners.....	1207	1422

	Original.	Print.
Letter of the Secretary	1219	1438
Approval by the President	1220	1440
Testimony of Charles E. Satterlee and Joseph H. Call on behalf of Defendants, in Case No. 587, taken before Everett J. Esselstyn, a Notary Public, at New York	1221	1441
Caption to Depositions	1222	1441
Notice to take Depositions	1225	1444
Oath of Everett J. Esselstyn	1227	1446
Stipulation as to taking Depositions	1229	1448
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By-laws of Texas and Pacific Railway Company, adopted at meeting of Directors, May 24, 1871	1250	1474
Report of G. M. Dodge, Chief Engineer Texas and Pacific Railroad, to Thomas A. Scott, President, dated March 12, 1873	1254	1479
First Partial Report of Leo Longley, Esq., Special Examiner in Chancery, in Case No. 587	1268	1496
Caption to Depositions	1269	1496
Deposition of Charles A. Shaw for Complainant	1278	1504
Exhibits filed before Special Examiner Leo Longley, Esq., on Complainants' behalf:		
1. Articles of Association, Amalgamation, and Consolidation of August 12, 1873, of the Southern Pacific Railroad Company with the Southern Pacific Branch Railroad Company (Master's Exhibit No. 125 in Case Nos. 67, 68, and 69 consolidated; Plaintiffs' Exhibit No. 1 before Examiner Lamme in Case No. 184; Plaintiffs'		

	Original.	Print.
Exhibit No. 3 before Examiner Longley in Case No. 600)	1299	1528
3. Map of the Texas Pacific Railroad, with twenty miles' limits in California, and Letter dated September 27th, 1871, W. W. Curtis, Acting Commissioner, to Register and Receiver, Los Angeles, California	1307	1538
Certificate	1307	1538
Letter	1308	1539
Map	1310	1541
9. Statement of Lands disposed of under Mexican and Spanish Grants	1311	1543
10. Map of Reserved Lands on proposed location of the Texas Pacific Railroad, under Act of Congress of March 3d, 1871, from El Paso, Texas, to the Bay of San Diego, California, and Letter, dated 2d Sept., 1871, C. Delano, Secretary, to Hon. Willis Drummond, Commissioner General Landoffice; also Letter, dated August 15th, 1871, Marshall O. Roberts, President, and Geo. C. Buell, Chief Engineer, to W. P. Talboye, Assistant Secretary	1313	1544
Certificate	1313	1544
Letter of 2d Sept., 1871	1314	1545
Letter of August 15th, 1871	1315	1546
Map	1316	1547
11. Opinion, dated November 2, 1885, addressed by Z. Montgomery, Assistant Attorney General, to Hon. L. Q. C. Lamar, Secretary of the Interior, and Decision, dated November 2, 1885, addressed by L. Q. C. Lamar, Secretary, to Hon-		

	Original.	Print.
orable W. A. J. Sparks, Commissioner of the General Landoffice..... 1317		1549
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12. Articles of Association, Amalgamation, and Consolidation of December 17, 1874, Southern Pacific Railroad Company with Los Angeles and San Pedro Railroad Company (Plaintiffs' Exhibit No. 4 before Examiner Longley in Case No. 600).. 1327		1560
13. Articles of Association, Incorporation, Amalgamation, and Consolidation of the Southern Pacific Railroad Company with the San Jose and Almaden and sixteen other railroad companies, dated May 4, 1888 (Plaintiffs' Exhibit No. 5 before Examiner Longley in Case No. 600)....1336		1570
Exhibits filed before Special Examiner Leo Longley, Esq., on Defendants' behalf:		
9A. Letter, dated March 22, 1871, Chas. Crocker, President Southern Pacific Railroad Company, to Secretary of the Interior (Defendants' Exhibit No. 31A before Examiner Longley in Case No. 600)..... 1375		1618
9B. Letter, dated April 3, 1871, Walter H. Smith, Acting Secretary of the Interior, to Willis Drummond, Commissioner of the General Landoffice (Defendants' Exhibit No. 31B before Examiner Longley in Case No. 600).....1379		1621
29. Letter dated April 21st, 1871, Willis Drummond, Commissioner, to Register and Receiver, Visalia, California (Defendants' Exhibit No. 311 before Examiner Longley in Case No. 600)....1382		1624

Original. Print.

30. Letter, dated April 21st, 1871, Willis Drummond, Commissioner, to Register and Receiver, Los Angeles, California (Defendants' Exhibit No. 312 before Examiner Longley in Case No. 600)..... ....1385 1626

31. Map showing Land Grant made by Act of Congress of July 27, 1866, to Southern Pacific Railroad Company (Defendants' Exhibit No. 256 before Examiner Longley in Case No. 600).....1387 1628

32. Letter of instructions, dated February 17, 1874, C. Delano, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at or near Fernando (Defendants' Exhibit No. 313 before Examiner Longley in Case No. 600).1388 1629

33. Letter of instructions, dated October 1, 1875, B. R. Cowen, Acting Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing at a point in the N. E. ¼, sec. 24, T. 1 S., R. 9 W., S. B. M. (Defendants' Exhibit No. 314 before Examiner Longley in Case No. 600).1392 1632

34. Telegram of instructions, dated June 17, 1876, Z. Chandler, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, fifty additional miles (Defendants' Exhibit No. 315 before Examiner Longley in Case No. 600).....1395 1634

35. Letter of instructions, dated February 6, 1877, Z. Chandler, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad, branch line, commencing

Original. Print.

at or near San Fernando (Defendants' Exhibit No. 316 before Examiner Longley in Case No. 600)..... ....1398 1636

36. Appointment, dated Oct. 27, 1877, of Commissioners to examine and report upon the Southern Pacific Railroad (Defendants' Exhibit No. 317 before Examiner Longley in Case No. 600).1401 1639

37. Letter of instructions, dated October 27, 1877, C. Schurz, Secretary of the Interior, to the Commissioners appointed to examine the Southern Pacific Railroad (Defendants' Exhibit No. 318 before Examiner Longley in Case No. 600)....1405 1641

43. Page 409, Printed Report of the Commissioner of the General Landoffice for the year 1875 (Defendants' Exhibit No. 324 before Examiner Longley in Case No. 600).....1409 1645

Second Partial Report of Leo Longley, Esq., Special Examiner in Chancery, in Case No. 587.....1413 1647

Caption to Depositions..... .....1413 1647

Exhibits filed before Special Examiner Leo Longley, Esq., on Complainants' behalf:

14. Letter, dated May 22, 1883, H. M. Teller, Secretary, to the Commissioner of the General Landoffice..... ....1421 1654

15. Argument of Alfred James, Attorney for T. P. R. R. Co., filed in the case of E. Daneri vs. Texas Pacific R. R. Co.....1425 1657

16. Letter and Decision, dated Feb. 5, 1881, J. A. Williamson, Commissioner, to Register and Receiver, Los Angeles, California.....1428 1659

	Original.	Print.
17. Letter and Decision, dated September 25, 1884, H. M. Teller, Secretary, to the Commissioner of the General Landoffice 1431		1662
18. Letter and Decision, dated December 12, 1884, M. L. Joslyn, Acting Secretary, to the Commissioner of the General Landoffice 1434		1665
19. Letter and Decision, dated September 27, 1871, W. W. Curtis, Acting Commissioner, to Register and Receiver, Los Angeles, California.....1438		1668
20. Letter, dated November 16, 1871, Willis Drummond, Commissioner, to Register and Receiver, Prescott, Arizona..... 1441		1670
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22. Bill of Complaint, Texas and Pacific Railway Company against the Southern Pacific Railroad Company of New Mexico et al., in the Third Judicial District of the Territory of New Mexico..1445		1674
23. Letter, dated April 1, 1873, Alfred James, Register, to Hon. Willis Drummond, Commissioner General Landoffice.....1478		1713
24. Annual Report of Texas and Pacific Railway Company to Department of the Interior, July 1st, 1873, together with annexed letter, dated July 1st, 1873, Thomas A. Scott, President, to Hon. C. Delano, Secretary of the Interior.....1480		1714
Letter of Thomas A. Scott to Hon. C. Delano..1481		1715
Annual Report..... 1482		1715
25. Annual Report of the Texas and Pacific Railway Company for the year ending June 30, 1876,		

Original. Print.

to the Department of the Interior, Washington, D. C., together with Letter dated Sept. 28, 1876, Thomas A. Scott, President T. P., to Hon. Z. Chandler, Secretary of the Interior.....1498 1730

Letter of Thomas A. Scott to Hon. Z. Chandler.1499 1730

Annual Report..... .....1500 1731

26. Annual Report of the Texas and Pacific Railway Company to the Department of the Interior, Washington, D. C., July 1st, 1877, together with Letter, dated October 1st, 1877, Thomas A. Scott, President Texas and Pacific Railway Company, to Hon. Carl Schurz, Secretary of the Interior 1509 1740

Letter of Thomas A. Scott to Hon. Carl Schurz.1510 1741

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27. Map of the Texas and Pacific Railway and its connections through Texas, New Mexico, Arizona, and California, accompanying the Report of the Texas and Pacific Railway Company for the year ending June 30, 1877.....1520 1750

Exhibits filed before Special Examiner Leo Longley, Esq., on Defendants' behalf:

A1. Letter, dated February 24, 1887, Henry Beard, Attorney Southern Pacific Railroad of California, to Hon. L. Q. C. Lamar, Secretary of the Interior..... ....1522 1753

A2. Resolution of the Southern Pacific Railroad Company, accepting the terms, conditions, and impositions of an Act of Congress of the United States incorporating the Texas Pacific Railroad Company, May 16th, 1871.....1524 1754

	Original.	Print.
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Exhibits filed before Special Examiner Leo Longley, Esq., on Complainants' behalf:		
28. Annual Report of the Texas and Pacific Railway Company for the year ending June 30, 1874	1531	1760
29. Map of the Texas and Pacific Railway and its connections, filed with and accompanying the Annual Report of the Texas Pacific Railway Company to the Secretary of the Interior for the year ending June 30, 1876	1544	1772
Deposition of Joseph Crawford, on behalf of Complainants, taken before H. S. Rollins, a Notary Public, at Los Angeles, California, in Consolidated Case No. 675	1546	1775
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Exhibits filed before H. S. Rollins, Notary Public, on Complainants' behalf:		
A1. Order of the Secretary of the Interior of May 23, 1887	1559	1787
A2. Answer of the Southern Pacific Railroad Company to the Order of the Secretary of the Interior of May 23, 1887	1564	1792
A3. Order of the Secretary of the Interior dated August 15, 1887	1585	1816

	Original.	Print.
A4. Protest by the Southern Pacific Railroad Company to the Secretary of the Interior, dated November 16, 1887	1589	1820
A5. Record of the hearing had before the Register and Receiver of the Los Angeles, California, Land District, in the case of Joseph Crawford vs. S. P. R. R. Co.	1594	1825
A6. Letter, dated January 8, 1891, Lewis A. Groff, Commissioner, to Register and Receiver, Los Angeles, Cal	1603	1847
A7. Decision of the Register and Receiver of the Los Angeles Land District, in the case of Joseph Crawford vs. S. P. R. R. Co., and appeal from said decision by the S. P. R. R. Co	1606	1849
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A8. Decision of the Commissioner of the General Landoffice in the case of Joseph Crawford vs. S. P. R. R. Co., and Appeal of the S. P. R. R. Co. therefrom	1611	1854
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A9. Decision of the Secretary of the Interior in the case of Joseph Crawford vs. S. P. R. R. Co., and Letter, dated Sept. 11, 1894, S. W. Lamoreux, Commissioner, to C. P. Huntington, Esq., President Southern Pacific R. R. Co.	1617	1859
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	Original.	Print.
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Deposition of Charles E. Satterlee for Complainants	1646	1873
Deposition of John T. Granger, on behalf of Complainants	1726	1968
Report of Testimony taken at Dallas, Texas, before G. W. Parker, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1796	2049
Caption to Deposition	1796	2049
Deposition of B. S. Wathen, on behalf of Complainants	1797	2050
Certificate of Special Examiner and Stenographer	1809	2065
Notice for taking Deposition	1811	2066
Order of Special Examiner fixing time	1814	2069
Order appointing Special Examiner and Stenographer	1816	2071
Exhibits filed before Special Examiner G. W. Parker, on Complainants' behalf:		
1. Texas and Pacific Railway, California Division —Map of surveys between Pima villages, Arizona, and San Diego, Cal	1818	2073
2. Map, from east line of range 6, thence to the Pacific Ocean, showing line of route by San Gorgonio Pass, and line "D" to San Diego	1819	2074

	Original.	Print.
3. Map of Texas and Pacific Railway, Arizona Division, from Fort Yuma to Pima villages	1820	2075
Report of Testimony taken at Los Angeles, California, before H. S. Rollins, Special Examiner and Stenographer, in Consolidated Cause No. 675	1821	2077
Order appointing Special Examiner and Stenographer	1821	2077
Order of Special Examiner fixing time to take Testimony	1823	2078
Notice to take Testimony	1824	2080
Caption to Depositions	1827	2083
Deposition of Joseph H. Call, on behalf of Complainants	1828	2084
Deposition of Oliver N. Sanford, on behalf of Complainants	1828	2085
Deposition of Samuel G. Bennett, on behalf of Complainants	1833	2091
Certificate of Special Examiner and Stenographer	1836	2095
Exhibits filed before Special Examiner H. S. Rollins, Esq., on Complainants' behalf:		
A. Texas and Pacific Railway, California Division, Map of surveys between Pima villages, Arizona, and San Diego, Cal	1837	2097
B. Diagram of Texas and Pacific Railway, showing of California Division from Yuma to head of Temecula Canyon, with 20, 30, and 40 mile limits	1838	2098
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	Original.	Print.
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Deposition of Samuel S. Marr, on behalf of Defendants	1857	2121
Deposition of Arthur Martin, on behalf of Defendants	1859	2122
Defendants' Exhibit "A" to Deposition of S. S. Marr, Form No. 1 of Certificate required by the Department of the Interior, to be used upon Maps of definite location	1861	2124
Defendants' Exhibit "B" to Deposition of S. S. Marr, Form No. 2 of Certificate required by the Department of the Interior, to be used upon Maps of definite location	1863	2126
Defendants' Exhibit "A" to Deposition of Arthur Martin, four letters, dated respectively July 1st, 1873, November 7, 1874, September 28, 1876, and October 1, 1877, transmitting to Secretary of the Interior Annual Reports of Texas and Pacific Railway Company	1864	2127
Defendants' Exhibit "B" to Deposition of Arthur Martin, four letters from Department of the Interior, dated respectively August 1st, 1873, November 11th, 1874, September 28th, 1876, and October 2d, 1877, acknowledging receipt of Annual Reports of the Texas Pacific Railway Company	1869	2131
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	Original.	Print.
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Report of Testimony taken at San Francisco, California, before Stephen Potter, Esq., Special Examiner and Stenographer, in Consolidated Cause No. 675	1881	2141
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Deposition of Jerome Madden, for the Defendants	1884	2142
Deposition of William Singer, Jr., for the Defendants	1888	2145
Deposition of Jerome Madden, recalled, for the Defendants	1889	2146
Deposition of W. H. H. Hart, for the Defendants	1907	2167
Deposition of Charles D. Rhodes, for the Defendants	1917	2179
Deposition of William Hood, for the Defendants	1920	2182
Certificate of Special Examiner	1942	2206
Exhibits before Special Examiner Stephen Potter, Esq., on Defendants' behalf:		
44. Blank form, showing status of lands sold by Southern Pacific Railroad Company	1944	2208
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TRANSCRIPT OF RECORD.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 190.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,
vs.
THE UNITED STATES OF AMERICA,
Appellees.

VOL. I.

(Pages 1 to 496, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Filmer Brothers Co. Print, 424 Sansome St., S. F.

In the United States Circuit Court of Appeals, for the Ninth Circuit.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA,

Appellees.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Appellants,

vs.

THE UNITED STATES OF AMERICA,

Appellees.

THE SOUTHERN PACIFIC RAILROAD COMPANY,

Appellant,

vs.

THE UNITED STATES OF AMERICA,

Appellees.

Order Extending Time to Docket Cause and File Record.

An appeal having been allowed on the 30th day of October, 1899, by the Circuit Court of the United States

for the Southern District of California, to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled causes, consolidated by order of Court, from a final decree on the 24th day of August, 1899, filed and entered of record in said Circuit Court, and on the 30th day of October, 1899, I, ERSKINE M. ROSS, United States Circuit Judge for the Ninth Circuit, having signed the citation in said cause, which citation was made returnable on the 28th day of November, 1899, and good cause now having been shown why the time should be enlarged for docketing said cause and filing the record thereof with the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, on motion of Wm. Singer, Jr., Esq., attorney for said appellants, and pursuant to the authority vested in me by subdivision one (1) of rule sixteen (16) of the Rules of the United States Circuit Court of Appeals for the Ninth Circuit,

It is ordered that the time heretofore allowed said appellants to docket said cause and file the record thereof with the clerk of said United States Circuit Court of Appeals for the Ninth Circuit, be, and the same hereby is, enlarged and extended until and including the 15th day of January, 1900.

Dated at Los Angeles, California, November 23, 1899.

ROSS,

United States Circuit Judge for the Ninth Circuit.

[Endorsed]: No. 584. United States Circuit Court of Appeals for the Ninth Circuit. Southern Pacific Railroad Company vs. United States of America et al. Order extending time to docket cause. Filed Nov. 24, 1899. Frank D. Monckton, Clerk. By Meredith Sawyer, Deputy Clerk.

Citation.

UNITED STATES OF AMERICA—ss.

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, on November 28th, 1899, pursuant to an appeal filed in the clerk's office of the United States Circuit Court, Ninth Circuit, Southern District of California, in case consolidated No. 675, wherein the United States of America is plaintiff, and the Southern Pacific Railroad Company and others are defendants, to show cause, if any there be, why the decree rendered in said cause on August 24th, 1899, by the said United States Circuit Court, against the said defendants, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Given under my hand, at the city of Los Angeles, on October 30th, 1899.

ROSS,
Circuit Judge.

Received copy and acknowledge service of within citation this 30th day of October, 1899.

JOS. H. CALL,
Attorney for Plaintiff.

[Endorsed]: Consolidated No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Co. et al. Citation. Filed Oct. 30, 1899. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., N. E. cor. 2nd and Mission Sts., San Francisco, Cal., Attorney for Southern Pacific Railroad Company et al.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

Bill of Complaint in Case No. 587.

To the Judges of the Circuit Court of the United States for the Southern District of California:

The United States of America, by the attorney general thereof, and Geo. J. Denis, United States attorney, bring this, their bill of complaint against the Southern Pacific Railroad Company, a corporation, organized and existing under and by virtue of the laws of the State of California, D. O. Mills and Gerrit L. Lansing, trustees, each a resident and citizen of the State of California, re-

siding at San Francisco, in said State, the Central Trust Company of New York, a corporation, organized and existing under and by virtue of the laws of the State of New York, the Southern Pacific Company, a corporation organized and existing under and by virtue of the laws of the State of Kentucky, and the Colorado River Irrigation Company, a corporation, organized and existing under and by virtue of the laws of the State of Colorado.

I.

And thereupon your orators show and allege that the following described land was acquired by the United States of America from Mexico in the year 1846, the title to which was confirmed to your orators by treaty of Guadalupe Hidalgo in the year 1848 and was then, ever since has been, and is now the property of the United States by title in fee simple, and at all times herein named the United States were, and still are, the owners and in the possession thereof, which land is described as follows, to wit:

All the sections of land within the State of California designated by odd numbers according to the United States surveys which have been and shall be made within the following described townships, to wit: Township thirteen south, ranges from fifteen to twenty-two east, inclusive; township fourteen south, ranges from nine to twenty-two east, inclusive; township fifteen south, ranges from ten to twenty-two east, inclusive; township sixteen south, ranges thirteen to twenty-two east, inclusive; township seventeen south, range twelve to twenty east, inclusive; also, sections 23 and 25, township 13 south, range 8 east; section 13, S. ½ section 15, S. ½ sec-

tion 17, all of sections 19, 21, 23, 25, 27, 29, 31, 33, and 35, township 13 south, range 9 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, township 13 south, range 10 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south half of sections 9 and 11, township 13 south, range 11 east; sections 7, 9, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south ½ of section 11, township 13 south, range 12 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south ½ of section 7, township 13 south, range 13 east; sections 1, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south half of sections 3 and 7, township 13 south, range 14 east; sections 25, 31, 33, 35, and S. ½ and N. E. ¼ of section 27 and S. E. ¼ of section 29, township 12 south, range 15 east; sections 21, 23, 25, 27, 29, 31, 33, 35, S. ½ 19; township 12 south; range 16 east; sections 13, 19, 21, 23, 25, 27, 29, 31, 33, 35, and S. ½ of sections 15 and 17, township 12 south, range 17 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, township 12 south, range 18 east; sections 19, 21, 23, 25, 27, 29, 31, 33, 35; and south ½ of sections 13, 15 and 17, township 12 south, range 19 east; sections 19, 21, 23, 25, 27, 29, 31, 33, 35, and S. ½ of sections 13, 15 and 17, township 12 south, range 20 east; sections 19, 21, 23, 25, 27, 29, 31, 33, 35, and south ½ of sections 13, 15 and 17, township 12 south, range 21 east; and all of section 31, township 12 south, range 22 east, San Bernardino base and meridian, and within the Southern District of California.

II.

Your orators further show: That by the act of Congress, approved July 27th, 1866, entitled "An act granting lands to aid in the construction of a railroad and

telegraph line from the States of Missouri and Arkansas to the Pacific Coast," Congress incorporated the Atlantic and Pacific Railroad Company and granted to said company, to aid in the construction of said railroad, a large amount of lands in the State of California and other States and territories, and to the whole of which said act your orators refer. (See United States Statutes, volume 14, p. 292.)

Your orators further show that by section 18 of said act Congress authorized the Southern Pacific Railroad Company, a corporation, claiming to be organized under the laws of the State of California, to connect with said Atlantic and Pacific Railroad, and to aid in its construction, and upon the condition that it would make such connection, agreed to make to said Southern Pacific Railroad Company a grant of lands upon the same terms, conditions and limitations as were granted to the said Atlantic and Pacific Railroad Company.

III.

Your orators further show unto the Court, and allege that by the act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes" (see U. S. Stats., Vol. 16, pp. 573-9), Congress incorporated and created the Texas Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of land in the State of California, and other States and territories, and to the whole of which said act your orators refer.

Your orators further show that said Texas Pacific Railroad Company duly accepted said grant, and the terms and conditions of said act, within the time therein required, and did designate upon a plat or map the whole of its general line of route, under said act, from Marshall, Texas, by way of the points and places named in said act, in the time and manner provided in said act, to San Diego, California, to Ship's Channel, in the Bay of San Diego; and on or about October 15, 1871, did file such plat in the office of the commissioner of the general land-office, and which map was approved by the secretary of the interior at that time, and upon the filing of such map in the office of the secretary of the interior, the United States withdrew from market and reserved all the odd numbered sections of land in California within sixty miles of the boundary line of Mexico, including the lands above described, and in pursuance of orders of the secretary of the interior and commissioner of the general landoffice, said withdrawal and reservation of said lands was made of record in the general landoffice and United States district landoffices in California, and that said lands above described are within twenty miles of the said line of route of said Texas Pacific Railroad.

Your orators further show to the Court that by section 23 of said act of Congress, approved March 3, 1871, it was provided as follows: "That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river,

with the same rights, grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to the said Southern Pacific Railroad Company of California by the act of July 27, 1866; provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company."

IV.

Your orators further allege that said Texas Pacific Railroad Company did not, within the time or manner required by said act of Congress of March 3, 1871, nor at all, construct or complete any railroad or telegraph line, in whole or in part, within the State of California, nor within the territory of Arizona, and that, on the 28th of February, 1885, all lands and rights to lands granted to and conferred upon said Texas Pacific Railroad Company, and situated within the State of California and territory of Arizona, were forfeited and resumed to the United States, and said lands were restored to the public domain by the act of Congress, approved February 28, 1885 (see 23 U. S. Stats., p. 337), and to which said act your orators refer.

Your orators further show unto the Court and allege that all of the tracts of land above described were granted by Congress to said Texas Pacific Railroad Company by said act of Congress making said grant to said company, and from the date of said grant to said company as aforesaid until said lands and rights to lands were forfeited as aforesaid, said company claimed to own said lands, and had a prospective as well as a present right to said lands; and during all of that time said

lands were reserved by the United States for the benefit of said Texas Pacific Railroad Company.

V.

Your orators are informed and believe that the defendants herein claim that a line of railroad and telegraph from Tehachapi Pass, by way of Los Angeles, to the Colorado river has been constructed by the Southern Pacific Railroad Company within the time and in the manner provided by said act of Congress of March 3, 1871, above referred to, and that said company did accept said grant and the terms and conditions thereof, and did, in the year 1874, designate its line by a plat thereof, which it filed in the office of the commissioner of the general landoffice, of that date, within the time and manner provided by said act; and the defendants claim that the lands above described were granted to said company by said act; and defendants further claim that commissioners, appointed by the President of the United States, have reported that said railroad was constructed in all respects in compliance with said act; but your orators allege that all of said claims and pretenses are false and unfounded, and your orators show that said Southern Pacific Railroad Company named in said act of Congress of March 3, 1871, has not located or constructed any railroad or telegraph line, or any portion thereof, between the points named in section 23 of said act of March 3, 1871, within the time or manner provided by said act, or at all, nor has any connection ever been made with said Texas Pacific Railroad at or near the Colorado river, or at any other point.

VI.

And your orators further allege that none of said lands were granted to said Southern Pacific Railroad Company by said act of March 3, 1871, and that said lands were not included in any grant to said company or to the defendants herein, or either of them, and that said lands were not of the category or of the character of lands described in said act of March 3, 1871, to be granted to the company therein named; but, on the contrary, they were lands reserved and otherwise claimed, and said lands are still owned, by the United States.

VII.

Your orators further allege that on March 3, 1871, the Southern Pacific Railroad Company, named in said act of Congress of that date, was not authorized by its charter to construct or operate the line of railroad from Tehachapi Pass, by way of Los Angeles, to the Colorado river, and thereafter, and before any part of any railroad or telegraph line was constructed between the points named in said act of March 3, 1871, and on August 12, 1873, said Southern Pacific Railroad Company did, without any authority from the United States or from the Congress of the United States, enter into certain articles of incorporation and consolidation with the Southern Pacific Branch Railroad Company, a corporation, thereby creating a new corporation and taking new powers under such new charter from the State of California, and thereby surrendering to the United States all the grants, rights, franchises and privileges theretofore conferred upon the first said Southern Pacific Railroad Company.

VIII.

And your orators further allege that in the year 1874, and before any part of the railroad between the points named in said act Congress of March 3, 1871, had been constructed or completed, said Southern Pacific Railroad Company, created by said articles of incorporation and consolidation, on August 12, 1873, consolidated with other railroad companies corporations, creating another and new corporation without any authority from the United States or from the Congress of the United States, and taking its new charter from the State of California, and thereby surrendering to the United States all the franchises, grants, rights and privileges, if any then remained, which had been conferred by the Congress of the United States under said act of Congess of March 3, 1871.

IX.

Your orators further allege that the defendants herein, and each of them, claim some interest in the said lands under and by virtue of the said act of March 3, 1871, and not otherwise. The nature and extent of such claims are unknown to your orators, but your orators allege that such claims are not based upon any legal or equitable right to such lands or any thereof.

Your orators further show that said adverse claims of said defendants hinder and embarrass your orators, and prevent the department of the interior from selling and otherwise disposing of said lands under the laws of the United States.

X.

Your orators further allege that defendants herein, while claiming and pretending to own some interest in said lands, are now unlawfully removing from said lands, wood, timber, minerals and other valuable deposits, and unlawfully threatening to chop down other trees on said land and remove other minerals and valuable deposits thereon, and unless enjoined will do so, to the great and irreparable injury of your orators.

XI.

Your orators further allege that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum or value of five thousand (5,000) dollars.

In tender consideration whereof, and forasmuch as your orators are remediless at and by the strict rules of the common law, and can only be relieved in a court of equity, your orators pray that their title to said land may be quieted, and that the defendants and each of them be forever enjoined from asserting or claiming any right or title thereto adverse to your orators, and that the defendants be forever enjoined from chopping down or carrying away any wood, trees or timber upon said land, and from removing any minerals or other valuable deposits thereon; and your orators pray for such other and further relief as the Court may deem equitable, and for costs of this suit.

May it please your Honors to grant unto your orators a writ of subpoena, issuing out of and under the seal of this honorable Court, to be directed to the above-named defendants, the Southern Pacific Railroad Company, D.

O. Mills and Gerrit L. Lansing, trustees, the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, commanding them on a certain day, and under a certain penalty therein to be inserted, to be and appear before your Honors, and then and there to answer the premises, and further to stand to and abide such order and decree therein as shall be agreeable to equity and to good conscience, and your orators will ever pray.

Your orators expressly waive answer under oath by the defendants and each of them.

GEORGE J. DENIS,
United States Attorney.

[Endorsed]: 587. In the Circuit Court of the United States, Ninth Circuit, Southern District of California. The United States of America, Plaintiffs, vs. The Southern Pacific Railroad Company et al., Defendants. Bill. Filed Jan. 31, 1894. Wm. M. Van Dyke, Clerk.

UNITED STATES OF AMERICA.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

Subpoena.

The President of the United States of America, Greeting, to the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, Trustees, and the Cen-

tral Trust Company of New York, the Southern Pacific Company of Kentucky and the Colorado River Irrigation Company:

You are hereby commanded that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom, in Los Angeles on the second day of April, A. D. 1894, to answer a bill of complaint exhibited against you in said Court by the United States of America and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under the penalty of five thousand dollars.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this 7th day of February, in the year of our Lord, one thousand eight hundred and ninety-four and of our independence the one hundred and eighteenth.

[Seal] WM. M. VAN DYKE,
Clerk.
By E. H. Owen,
Deputy Clerk.

Memorandum Pursuant to Rule 12, Supreme Court, U. S.

You are hereby required to enter your appearance in the above suit on or before the first Monday of April, next, at the clerk's office of said Court pursuant to said bill; otherwise the said bill will be taken pro confesso.

WM. M. VAN DYKE,
Clerk.
By E. H. Owen,
Deputy Clerk.

United States Marshal's Office,
Northern District of California.

I hereby certify that I received the within writ on the 19th day of March, 1894, and personally served the same on the 22d day of March, 1894, on the Southern Pacific Company of Kentucky, by delivering to and leaving with C. F. Crocker, vice-president of the Southern Pacific Company of Kentucky, said defendant named therein personally, at the city and county of San Francisco, in said district, a certified copy thereof, and I further certify that I was unable to find Central Trust Co. of New York and Colorado River Irrigation Co. in my district.

San Francisco, March 22, 1894.

W. G. LONG,
U. S. Marshal,
By ————,
Deputy.

United States Marshal's Office,
Northern District of California.

I hereby certify that I received the within writ on the 19th day of March, 1894, and personally served the same on the 22d day of March, 1894, on the Southern Pacific Railroad Company by delivering to and leaving with C. F. Crocker, president of the Southern Pacific Railroad Company, said defendant named therein, personally, at the city and county of San Francisco in said district, a certified copy thereof.

San Francisco, March 22, 1894.

W. G. LONG,
U. S. Marshal,
By ————,
Deputy.

United States Marshal's Office,
Northern District of California.

I hereby certify that I received the within writ on the 19th day of March, 1894, and personally served the same on the 22d day of March, 1894, on Gerrit L. Lansing, trustee, by delivering to and leaving with Gerrit L. Lansing, trustee, said defendant named therein, personally, at the city and county of San Francisco in said district a certified copy thereof, and I further certify that I could not find D. O. Mills, trustee, in my district.

San Francisco, March 22, 1894.

W. G. LONG,
U. S. Marshal,
By ————,
Deputy.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. In Equity. The United States of America vs. The Southern Pacific Company et al. Subpoena. Filed Apr. 30, 1894. Wm. M. Van Dyke, Clerk.

UNITED STATES OF AMERICA.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

Subpoena.

The President of the United States of America, Greeting, to the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, Trustees, and the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company:

You are hereby commanded, that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom in Los Angeles, on the second day of April, A. D. 1894, to answer a bill of complaint exhibited against you in said Court by the United States of America, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under the penalty of five thousand dollars.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this 7th day of February, in the year of our Lord, one thousand eight hundred and ninety-four, and of our independence the one hundred and eighteenth.

[Seal] WM. M. VAN DYKE,
Clerk.

By E. H. Owen,
Deputy Clerk.

Memorandum Pursuant to Rule 12, Supreme Court, U. S.

You are hereby required to enter your appearance in the above suit on or before the first Monday of April, next, at the clerk's office of said Court pursuant to said bill; otherwise the said bill will be taken pro confesso.

WM. M. VAN DYKE,
Clerk.
By E. H. Owen,
Deputy Clerk.

United States Marshal's Office,
Southern District of California.

I hereby certify that I received the within writ on the 7th day of February, 1894, and personally served the same on the day of , 189 , on the Southern Pacific Company of Kentucky, by delivering to and leaving with J. A. Muir, assistant superintendent of the Southern Pacific Company of Kentucky, said defendant named therein, personally at the county of Los Angeles in said district, a certified copy thereof, and I further certify that I am unable after due and diligent search to find the other within named defendants in this district.

Los Angeles, Apr. 2, 1894.

GEO. E. GARD,
U. S. Marshal,
By F. B. Goodrich,
Deputy.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. In Equity. The United States of America vs. The Southern Pacific Railroad Company et al. Subpoena. Filed Jan. 17, 1895. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
No. 587.

Special Appearance and Plea in Abatement of Southern Pacific Railroad Company.

Now comes the Southern Pacific Railroad Company, one of the defendants named in the above entitled cause, and appears specially in this action for the purpose of objecting to the jurisdiction of the Court, and sets forth as a plea in abatement in this cause the following facts:

I.

The defendant, the Southern Pacific Railroad Company, by protestation, not confessing or acknowledging all or any parts of the matters or things in the said bill of complaint mentioned to be true, in such manner and

form as the same are therein set forth and alleged, does plead thereto and for plea says: That it is a corporation duly organized and existing under and by virtue of the laws of the State of California.

II.

That nevertheless, while it admits that it operates a line of railway through the county where this suit is pending and through the Southern Judicial District of the Ninth Circuit, State of California, and maintains a ticket and freight office and depot in the city and county of Los Angeles, State of California, yet the said defendant is not an inhabitant of the judicial district in which the suit is pending.

III.

That it is a corporation duly incorporated and existing as aforesaid, having its principal office, habitat and domicile in the city and county of San Francisco, State of California, and beyond and not within this judicial district, but within the Northern Judicial District of the Ninth Circuit, State of California; all which matters and things it avers to be true and pleads the same to the said bill, and humbly craves the judgment of this honorable Court whether it ought to be compelled to make any further or other answer to the said bill, and furthermore craves this honorable Court that this defendant and the above entitled suit against it may be dismissed for want of jurisdiction of this honorable Court in the premises, and that the defendant may go hence without day.

JOSEPH D. REDDING,

Solicitor and of Counsel for the Defendant, the Southern Pacific Railroad Company, 35 Chronicle Building, San Francisco.

I hereby certify that the foregoing plea is in my opinion well founded in point of law.

San Francisco, May first, 1894.

JOSEPH D. REDDING,
Of Counsel for Defendant, the S. P. R. R. Co.

City and County of San Francisco,
State of California,
Northern District of California. } ss.

J. L. Willcutt, being duly sworn, deposes and says: I am one of the officers of the Southern Pacific Railroad Company, the above-named defendant, to-wit, the secretary thereof. The foregoing plea is true in point of fact, and not interposed for delay.

J. L. WILLCUTT.

Sworn to before me this first day of May, 1894.

[Seal] E. B. RYAN,
Notary Public in San Francisco, Cal.

[Endorsed]: No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America, Plaintiff, vs. Southern Pacific R. R. Co. et al., Defendants. Special Appearance and Plea in Abatement of Southern Pacific R. R. Co. Received copy of within this fourth day of May, 1894, subject to all objections. George J. Denis, U. S. Atty. Filed May 4, 1894. Wm. M. Van Dyke, Clerk. Joseph D. Redding, Solicitor for Defendants, 33 Chronicle Building, San Francisco, Cal.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
No. 587.

Special Appearance and Plea in Abatement of Gerrit L. Lansing.

Now comes Gerrit L. Lansing, one of the defendants named in the above-entitled cause, and appears specially in this action for the purpose of objecting to the jurisdiction of the Court, and sets forth as a plea in abatement in this case the following facts:

I.

I, Gerrit L. Lansing, and named as Gerrit L. Lansing, trustee, in said complaint, by protestation, not confessing or acknowledging all or any part of the matters or things

in the said bill of complaint mentioned to be true in such manner and form as the same are therein set forth and alleged, do plead and for plea say, that I am a resident and inhabitant of the Northern District of the State of California.

II.

That I reside in the city and county of San Francisco, State of California, and I am not an inhabitant or a resident of the judicial district in which this suit is pending.

III.

That said city and county of San Francisco, State of California, is in the Northern District, Ninth Judicial Circuit, of the State of California, and beyond and not within this judicial district; all which matters and things I aver to be true, and plead the same to the said bill and humbly crave the judgment of this Honorable Court, whether I ought to be compelled to make any further or other answer to the said bill, and furthermore crave this Honorable Court that I and the above-entitled suit against me may be dismissed for want of jurisdiction of this Honorable Court in the premises, and that I may go hence without day.

JOSEPH D. REDDING,

Solicitor and of Counsel for the Defendant Gerrit L. Lansing, 35 Chronicle Building, San Francisco.

I hereby certify that the foregoing plea is in my opinion well founded in point of law.

San Francisco, May 1, 1894.

JOSEPH D. REDDING,

Of Counsel for Defendant Gerrit L. Lansing.

City and County of San Francisco,
State of California,
Northern District of California. } ss.

Gerrit L. Lansing, being duly sworn, deposes and says: I am one of the above-named defendants. The foregoing plea is true in point of fact and not interposed for delay.

G. L. LANSING.

Sworn to before me this first day of May, 1894.

[Seal] E. B. RYAN,
Notary Public in San Francisco, Cal.

[Endorsed]: No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America, Plaintiffs, vs. Southern Pacific R. R. Co. et al., Defendants. Special appearance and plea in abatement of Gerrit L. Lansing. Received copy of within this fourth day of May, 1894, subject to all objections. George J. Denis, U. S. Atty. Filed May 4, 1894. Wm. M. Van Dyke, Clerk. Joseph D. Redding, Solicitor for Defendants, 33 Chronicle Building, San Francisco, Cal.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Plaintiffs, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY, Defendants.	No. 587.

Special Appearance and Plea in Abatement of Southern Pacific Company.

Now comes the Southern Pacific Company, one of the defendants named in the above-entitled cause, and appears specially in this action for the purpose of objecting to the jurisdiction of the Court, and sets forth as a plea in abatement in this cause the following facts:

I.

The defendant, the Southern Pacific Company, by protestation, not confessing or acknowledging all or any

parts of the matters or things in the said bill of complaint mentioned to be true in such manner and form as the same are therein set forth and alleged, does plead thereto and for plea says: That it is a corporation duly organized and existing under and by virtue of the laws of the State of Kentucky.

II.

That the said defendant is not a resident or inhabitant of the judicial district in which the suit is pending.

III.

That it is a corporation duly incorporated and existing as aforesaid, having its principal office, habitat and domicile in the city and county of San Francisco, State of California, and beyond and not within this judicial district, but within the Northern Judicial District of the Ninth Circuit, all which matters and things it avers to be true, and pleads the same to the said bill, and humbly craves the judgment of this Honorable Court whether it ought to be compelled to make any further or other answer to the said bill, and furthermore craves this Honorable Court that this defendant and the above-entitled suit against it may be dismissed for want of jurisdiction of this Honorable Court in the premises, and that the defendant may go hence without day.

JOSEPH D. REDDING,

Solicitor and of Counsel for the Defendant, the Southern Pacific R. R. Co., 35 Chronicle Building, San Francisco.

I hereby certify that the foregoing plea is in my opinion well founded in point of law.

San Francisco, May 1, 1894.

JOSEPH D. REDDING,
Of Counsel for Defendant, the S. P. Co.

City and County of San Francisco,
State of California,
Northern District of California. } ss.

G. L. Lansing, being duly sworn, deposes and says: I am one of the officers of the Southern Pacific Company, the above-named defendant, to wit, the secretary thereof. The foregoing plea is true in point of fact and not interposed for delay.

G. L. LANSING.

Sworn to before me this first day of May, 1894.

[Seal] E. B. RYAN,
Notary Public in San Francisco, Cal.

[Endorsed]: No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America, Plaintiffs, vs. Southern Pacific R. R. Co. et al., Defendants. Special appearance and plea in abatement of Southern Pacific Company. Received copy of within this fourth day of May, 1894, subject to all objections. George J. Denis, U. S. Atty. Filed May 4, 1898. Wm. M. Van Dyke, Clerk. Joseph D. Redding, Solicitor for Defendants, 33 Chronicle Building, San Francisco, Cal.

At a stated term, to wit, the January term, A. D. 1894, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the seventh day of May, in the year of our Lord one thousand eight hundred and ninety-four. Present: The Honorable ERSKINE M. ROSS, District Judge.

UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Certified Copy of Order that Certain Defendants Appear.

It having been made to appear to the Court that this is a suit to enforce a claim to certain real estate situated within this Judicial District, the Southern District of California, and to remove a cloud upon the title to such real estate, and it further appearing to the Court that the Central Trust Company of New York, the Colorado River Irrigation Company, and D. O. Mills, trustee, defendants in said suit, are not inhabitants of and cannot be found within this State of California, and that neither of them is an inhabitant of and neither of them can be found within this said State of California, and that said defendants

will not voluntarily appear in said suit, and that it is not practicable to serve such defendants personally, nor any person or persons in possession or charge of said real estate, now, therefore, upon motion of Joseph H. Call, Esq., special assistant United States attorney for the Southern District of California, of counsel for complainants, in open court, it is ordered by the Court that the following named defendants in this suit, to-wit, the Central Trust Company of New York, the Colorado River Irrigation Company, and D. O. Mills, trustee, be required and hereby are ordered to appear in this court by the second day of July, 1894, and to plead, answer, or demur to the bill of complaint herein by the sixth day of August, 1894, and that a copy of this order, certified by the clerk, shall be published in The Daily Journal (a newspaper printed and published in the city and county of Los Angeles, State of California) once a week for six consecutive weeks, between the date of this order and the second day of July, 1894.

I, Wm. M. Van Dyke, Clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Court, May 7th, 1894, in the cause entitled United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court this 24th day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order that certain defendants appear. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
No. 587.

Special Appearance and Plea in Abatement of Southern Pacific Company.

Now comes the Southern Pacific Company, one of the defendants named in the above-entitled cause, and appears specially in this action for the purpose of objecting to the jurisdiction of the Court, and sets forth as a plea in abatement in this cause the following facts:

I.

The defendant the Southern Pacific Company, by protestation, not confessing or acknowledging all or any parts of the matters or things in the said bill of complaint mentioned to be true in such manner and form as the same are therein set forth and alleged, does plead thereto, and for the plea says: That it is a corporation duly organized and existing under and by virtue of the laws of the State of Kentucky.

II.

That the said defendant is not a resident or inhabitant of the judicial district in which the suit is pending.

III.

That it is a corporation duly incorporated and existing, as aforesaid, having its principal office in San Francisco, Cal., and its habitat and domicile in the State of Kentucky, and is an inhabitant thereof, and beyond and not within this judicial district, and not within the Southern Judicial District of the Ninth Circuit, all of which matters and things it avers to be true, and pleads the same to the said bill, and humbly craves the judgment of this Honorable Court, whether it ought to be compelled to make any further or other answer to the said bill, and further craves this Honorable Court that this defendant and the above-entitled suit against it may be dismissed for want of jurisdiction of this Honorable Court in the premises, and that the defendant may go hence without day.

JOSEPH D. REDDING,

Solicitor and of Counsel for the Defendant, the Southern Pacific R. R. Co., 35 Chronicle Building, San Francisco.

I hereby certify that the foregoing plea is in my opinion well founded in point of law.

San Francisco, May , 1894.

JOSEPH D. REDDING,
Of Counsel for Defendant, the S. P. Co.

City and County of San Francisco,
State of California,
Northern District of California. } ss.

N. T. Smith, being duly sworn, deposes and says: I am one of the officers of the Southern Pacific Company, the above-named defendant, to-wit, the treasurer thereof. The foregoing plea is true in point of fact, and not interposed for delay.

N. T. SMITH.

Sworn to before me this twenty-first day of June, 1894.

[Seal] E. B. RYAN,
Notary Public in and for San Francisco, Cal.

[Endorsed]: 587. U. S. Circuit Court, Southern District of California. The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants. Plea of Southern Pacific Company. Received copy of within subject to all objections as to time, etc. June 23, 1894. George J. Denis, U. S. Atty. Filed June 23, 1894. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the August term, A. D. 1894, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Thursday, the eleventh day of October, in the year of our Lord one thousand eight hundred and ninety-four. Present: The Honorable ERSKINE M. ROSS, District Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Certified Copy of Order Overruling Plea in Abatement and Motion to Dismiss of Southern Pacific Railroad Company.

This cause having heretofore been submitted to the Court for its consideration and decision upon the plea in abatement of the defendant, the Southern Pacific Railroad Company, appearing specially for the purpose of objecting to the jurisdiction of the Court, and upon said defendant's motion to dismiss said cause for want of jurisdiction, and the Court having duly considered the same, and being fully advised in the premises, it is now, on this eleventh day of October, 1894, being a day in the August

term, A. D. 1894, of said Circuit Court of the United States for the Southern District of California, ordered that said plea and said motion to dismiss be, and the same are hereby, overruled. On motion on behalf of said defendant and with the consent of counsel for complainant it is ordered that said defendant have thirty (30) days within which to serve and file its demurrer or answer to complainant's bill of complaint.

I, Wm. M. Van Dyke, Clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Court October 11th, 1894, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court this 24th day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,

Clerk.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order overruling plea in abatement and motion to dismiss. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the August term, A. D. 1894, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Thursday, the eleventh day of October, in the year of our Lord one thousand eight hundred and ninety-four. Present: The Honorable ERSKINE M. ROSS, District Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Certified Copy of Order Overruling Plea in Abatement and Motion to Dismiss of Southern Pacific Company.

This cause having heretofore been submitted to the Court for its consideration and decision upon the plea in abatement of the defendant, the Southern Pacific Company, appearing specially for the purpose of objecting to the jurisdiction of the Court, and upon said defendant's motion to dismiss said cause for want of jurisdiction, and the Court having duly considered the same, and being fully advised in the premises, it is now, on this

eleventh day of October, 1894, being a day in the August term, A. D. 1894, of said Circuit Court of the United States for the Southern District of California, ordered that said plea and said motion to dismiss be, and the same are hereby, overruled. On motion on behalf of said defendant and with the consent of counsel for complainant it is ordered that said defendant have thirty (30) days within which to serve and file its demurrer or answer to complainant's bill of complaint.

I, Wm. Van Dyke, Clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Court October 11th, 1894, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., No. 587, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court this 24th day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company e '. Certified copy of order overruling plea in abatement and motion to dismiss. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the August term, A. D. 1894, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Thursday, the eleventh day of October, in the year of our Lord one thousand eight hundred and ninety-four. Present: The Honorable ERSKINE M. ROSS, District Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Certified Copy of Order Overruling Plea in Abatement and Motion to Dismiss of Gerrit L. Lansing.

This cause having heretofore been submitted to the Court for its consideration and decision upon the plea in abatement of the defendant Gerrit L. Lansing, appearing specially for the purpose of objecting to the jurisdiction of the Court, and upon said defendant's motion to dismiss said cause for want of jurisdiction, and the Court having duly considered the same, and being fully advised in the premises, it is now, on this eleventh day of October, 1894, being a day in the August term, A. D. 1894, of said Circuit

Court of the United States for the Southern District of California, ordered that said plea and said motion to dismiss be, and the same are hereby, overruled. On motion on behalf of said defendant and with the consent of counsel for complainant it is ordered that said defendant have thirty (30) days within which to serve and file its demurrer or answer to complainants' bill of complaint.

I, Wm. Van Dyke, Clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Court October 11th, 1894, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and now remainng of record therein.

Attest my hand and the seal of said Circuit Court this 24th day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order overruling plea in abatement and motion to dismiss. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the August term, A. D. 1894, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Thursday, the eleventh day of October, in the year of our Lord one thousand eight hundred and ninety-four. Present: The Honorable ERSKINE M. ROSS, District Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Certified Copy of Order Allowing Complainants to File Amended Bill of Complaint.

On motion of Joseph H. Call, Esq., Special Assistant United States Attorney, of counsel for complainants, and good cause therefor appearing, it is ordered that complainants have leave to file herein their amended bill of complaint.

I, Wm. Van Dyke, Clerk of the Circuit Court of the United States for the Southern District of California, do

hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Court October 11th, 1894, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court this 24th day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 587. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order allowing complainants to file an amended bill of complaint. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY, Defendants.

Amended Bill of Complaint.

To the Judges of the Circuit Court of the United States States for the Southern District of California:

The United States of America, by the attorney-general thereof, and Geo. J. Denis, United States attorney, and Joseph H. Call, special assistant attorney by leave of Court, brings this, their amended bill of complaint, against the Southern Pacific Railroad Company, a corporation organized and existing under and by virtue of the laws of the State of California, D. O. Mills and Gerrit L. Lansing, trustees, each a resident and citizen of the State of California, residing at San Francisco in said

State, the Central Trust Company of New York, a corporation organized and existing under and by virtue of the laws of the State of New York, the Southern Pacific Company, a corporation organized and existing under and by virtue of the laws of the State of Kentucky, and the Colorado River Irrigation Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado.

I.

And thereupon your orators show and allege that the following described land was acquired by the United States of America from Mexico in the year 1846, the title to which was confirmed to your orators by treaty of Guadalupe Hidalgo in the year 1848, and was then, ever since has been, and is now the property of the United States by title in fee simple, and at all times herein named the United States were and still are the owners and in the possession thereof, which land is described as follows, to-wit:

All the sections of land within the State of California designated by odd numbers according to the United States surveys which have been and shall be made within the following described townships, to-wit: Township thirteen south, ranges from fifteen to twenty-two east, inclusive; township fourteen south, ranges from nine to twenty-two east, inclusive; township fifteen south, ranges from ten to twenty-two east, inclusive; township sixteen south, ranges thirteen to twenty-two east, inclusive; township seventeen south, ranges twelve to twenty east, inclusive; also sections 23 and 25, township 13 south, range 8 east;

section 13, S. ½ section 15, S. ½ section 17, all of sections 19, 21, 23, 25, 27, 29, 31, 33, 35, township 13 south, range 9 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, township 13 south, range 10 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south half of sections 9 and 11, township 13 south, range 11 east; sections 7, 9, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south ½ of section 11, township 13 south, range 12 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south ½ of section 7, township 13 south, range 13 east; sections 1, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, and south half of sections 3 and 7, township 13 south, range 14 east; sections 25, 31, 33, 35, and S. ½ and N. E. ¼ of section 27, and S. E. ¼ of section 29, township 12 south, range 15 east; sections 21, 23, 25, 27, 29, 31, 33, 35, S. ½ 19, township 12 south, range 16 east; sections 13, 19, 21, 23, 25, 27, 29, 31, 33, 35, and S. ½ of sections 15 and 17, township 12 south, range 17 east; sections 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, township 12 south, range 18 east; sections 19, 21, 23, 25, 27, 29, 31, 33, 35, and south ½ of sections 13, 15, and 17, township 12 south, range 19 east; sections 19, 21, 23, 25, 27, 29, 31, 33, 35; and S. ½ of sections 13, 15, and 17, township 12 south, range 20 east; sections 19, 21, 23, 25, 27, 29, 31, 33, 35, and S. ½ of sections 13, 15, and 17, township 12 south, range 21 east; and all of section 31, township 12 south, range 22 east, San Bernardino base and meridian. Also all the sections of land in California east of range four (4), San Bernardino meridian, designated by odd numbers other than those above described, situated within forty (40) miles of the line of route of the Texas Pacific Railroad Company hereinafter mentioned,

and on both sides thereof, as shown by the map of said company locating its line in California now on file in the general landoffice, and filed therein on the day of , 1871, a copy of which map will be introduced in evidence herein and made a part hereof, all of said lands being within the Southern District of California.

II.

Your orators further show: That by the act of Congress approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," Congress incorporated the Atlantic and Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of lands in the State of California and other States and Territories, and to the whole of which said act your orators refer. (See United States Statutes, volume 14, p. 292.)

Your orators further show that by section 18 of said act Congress authorized the Southern Pacific Railroad Company, a corporation claiming to be organized under the laws of the State of California, to connect with said Atlantic and Pacific Railroad, and to aid in its construction, and upon the condition that it would make such connection, agreed to make to said Southern Pacific Railroad Company a grant of lands upon the same terms, conditions, and limitations as were granted to the said Atlantic and Pacific Railroad Company.

III.

Your orators further show unto the Court, and allege that by the act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes" (see U. S. Statutes, Vol. 16, pages 573-9), Congress incorporated and created the Texas Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of land in the State of California and in other States and Territories, and to the whole of which said act your orators refer.

IV.

Your orators further show that said Texas Pacific Railroad Company duly accepted said grant, and the terms and conditions of said act, within the time therein required, and did designate upon a plat*e* or map the whole of its line of route under said act, from Marshall, Texas, by way of the points and places named in said act, in the time and manner provided in said act, to San Diego, California, to Ship's Channel, in the bay of San Diego; and on or about October 15, 1871, did file such plat in the office of the commissioner of the general landoffice, and which map was approved by the secretary of the interior at that time, and has ever since been treated by said officer as a sufficient and valid location of said railroad, and upon the filing of such map in the office of the secretary of the interior, the United States withdrew from market and reserved all the odd-numbered sections of land in California within sixty miles of the boundary

line of Mexico, including the lands above described, which are within the limits of said grant to said Texas Pacific Railroad Company, and in pursuance of orders of the secretary of the interior and commissioner of the general landoffice, said withdrawal and reservation of said lands was made of record in the general landoffice and United States district landoffices in California.

V.

Your orators further show to the Court that by section 23 of said act of Congress, approved March 3, 1871, it was provided as follows: "That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to the said Southern Pacific Railroad Company of California by the act of July 27, 1866, provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company."

VI.

Your orators further allege that said Texas Pacific Railroad Company did not within the time or manner required by said act of Congress of March 3, 1871, nor at all, construct or complete any railroad or telegraph line,

in whole or in part, within the State of California, nor within the Territory of Arizona, and that on the 28th of February, 1885, all lands and rights to lands granted to and conferred upon said Texas Pacific Railroad Company, and situated within the State of California and Territory of Arizona, were forfeited and resumed to the United States, and said lands were restored to the public domain by the act of Congress, approved February 28, 1885 (see 23 U. S. Statutes, 337), and to which said act your orators refer.

VII.

Your orators further show unto the Court and allege that all of the tracts of land above described were granted by Congress to said Texas Pacific Railroad Company by said act of Congress making said grant to said company, and from the date of said grant to said company as aforesaid until said lands and rights to lands were forfeited as aforesaid, said company claimed to own said lands, and had a prospective as well as a present right to said lands; and during all of that time said lands were reserved by the United States for the benefit of said Texas Pacific Railroad Company as against all claims of defendant Southern Pacific Railroad Company.

VIII.

Your orators further allege that prior to the date of said grant of March 3, 1871, a large part of the sections of land designated by odd numbers within the twenty miles and primary limits of the grant of said Texas Pacific Railroad Company had been sold, reserved and otherwise appropriated, and pre-emption and homestead claims had attached thereto.

IX.

Your orators further allege that said line of said Texas Pacific Railroad Company was located so near the boundary line of Mexico that there were not sufficient lands in California within the granted limits to satisfy such grant, but on the contrary, by reason of the facts aforesaid, said Texas Pacific Railroad Company, upon the filing and approval of said map, became invested with a present as well as a valuable prospective right to all said odd-numbered sections of land in California within forty miles of said line of route, and on both sides thereof, so far as such lands were located within said State of California.

X.

Your orators are informed and believe that the defendants herein claim that a line of railroad and telegraph from Tehachapi Pass, by way of Los Angeles, to the Colorado river, has been constructed by the Southern Pacific Railroad Company within the time and in the manner provided by said act of Congress of March 3, 1871, above referred to, and that said company did accept said grant and the terms and conditions thereof, and did, in the year 1874, designate its line by a plat thereof, which it filed in the office of the commissioner of the general landoffice on that date, within the time and manner provided by said act, and the defendants claim that the lands above described were granted to said company by said act, and defendants further claim that commissioners, appointed by the President of the United States, have reported that said railroad was constructed in all respects in compliance with said act; but your orators al-

lege that all of said claims and pretenses are false and unfounded; and your orators show that said Southern Pacific Railroad Company named in said act of Congress of March 3, 1871, has not located or constructed any railroad or telegraph line, or any portion thereof, between the points named in section 23 of said act of March 3, 1871, within the time or manner provided by said act, or at all, nor has any connection ever been made with said Texas Pacific Railroad at or near the Colorado river, or at any other point.

XI.

And your orators further allege that none of said lands were granted to said Southern Pacific Railroad Company by said act of March 3, 1871, and that said lands were not included in any grant to said company or to the defendants herein, or either of them, and that said lands were not of the category or of the character of lands described in said act of March 3, 1871, to be granted to the company therein named; but, on the contrary, they were lands reserved and otherwise claimed, and said lands are still owned by the United States.

XII.

Your orators further allege that on March 3, 1871, the Southern Pacific Railroad Company named in said act of Congress of that date was not authorized by its charter to construct or operate the line of railroad from Tehachapi Pass, by way of Los Angeles to the Colorado river, and thereafter and before any part of any railroad or telegraph line was constructed between the points named in said act of March 3, 1871, and on August 12,

1873, said Southern Pacific Railroad Company did, without any authority from the United States or from the Congress of the United States, enter into certain articles of incorporation and consolidation with the Southern Pacific Branch Railroad Company, a corporation, thereby creating a new corporation and taking new powers under such new charter from the State of California, and thereby surrendering to the United States all the grants, rights, franchises and privileges theretofore conferred upon the first said Southern Pacific Railroad Company.

XIII.

And your orators further allege that in the year 1874, and before any part of the railroad between the points named in said act of Congress of March 3, 1871, had been constructed or completed, said Southern Pacific Railroad Company, created by said articles of incorporation and consolidation, on August 12, 1873, consolidated with other railroad companies, corporations, creating another and new corporation without any authority from the United States or from the Congress of the United States, and taking its new charter from the State of California, and thereby surrendering to the United States all the franchises, grants, rights and privileges, if any then remained, which had been conferred by the Congress of the United States under said act of Congress of March 3, 1871.

XIV.

Your orators further allege that the defendants herein, and each of them, claim some interest in the said lands under and by virtue of the said act of March 3, 1871, and not otherwise. The nature and extent of such claims are

unknown to your orators, but your orators allege that such claims are not based upon any legal or equitable right to such lands or any thereof.

Your orators further show that said adverse claims of said defendants hinder and embarrass your orators, and prevent the department of the interior from selling and otherwise disposing of said lands under the laws of the United States.

XV.

Your orators further allege that defendants herein, while claiming and pretending to own some interest in said lands, are now unlawfully removing from said lands wood, timber, minerals and other valuable deposits, and unlawfully threatening to chop down other trees on said land, and remove other minerals and valuable deposits thereon, and unless enjoined will do so, to the great and irreparable injury of your orators.

XVI.

Your orators further allege that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum or value of five thousand (5,000) dollars.

In tender consideration whereof, and forasmuch as your orators are remediless at and by the strict rules of the common law, and can only be relieved in a court of equity, your orators pray that their title to said land may be quieted, and that the defendants, and each of them, be forever enjoined from asserting or claiming any right or title thereto adverse to your orators, and that the defendants be forever enjoined from chopping down or carrying away any wood, trees or timber upon said land,

and from removing any minerals or other valuable deposits thereon; and your orators pray for such other and further relief as the Court may deem equitable, and for costs of this suit.

Your orators further pray that their rights and title to all said lands in California embraced within the sections of land designated by odd numbers within forty miles of the line of route of said Texas Pacific Railroad Company as shown by the said map filed by said company and on file in the general landoffice, and on both sides of such line, may be quieted, and that the plaintiffs be decreed to be the absolute owners thereof by title in fee simple, and that the defendants be perpetually enjoined from having or claiming any right, title or interest in or to said lands from, through or under said acts of Congress, approved July 27, 1866, or March 3, 1871, or joint resolution of Congress, approved June 28, 1870 (volume 16, U. S. Statutes, page 382), or any other act of Congress named or to be named in this bill.

May it please your Honors to grant unto your orators a writ of subpoena issuing out of and under the seal of this honorable Court, to be directed to the above-named defendants, the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, commanding them on a certain day, and under a certain penalty therein to be inserted, to be and appear before your Honors, and then and there to answer the premises, and further to stand to and abide such or-

der and decree therein as shall be agreeable to equity and to good conscience, and your orators will ever pray.

Your orators expressly waive answer under oath by the defendants and each of them.

GEORGE J. DENIS,
United States Attorney, Southern District of California.

JOSEPH H. CALL,
Special Asst. Atty. and of Counsel for Compls.

[Endorsed]: No. 587. Circuit Court of the United States, Southern District of California. The United States, Plaintiff, vs. The Southern Pacific Railroad Company et al., Defendants. Amended bill. Filed Oct. 11, 1894. Wm. M. Van Dyke, Clerk. George J. Denis, Joseph H. Call, for Compl.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 587.

Answer to Bill of Complaint.

The joint and several answers of the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company to the amended bill of the United States, plaintiffs. These defendants respectively, now and at all times saving to themselves all and all manner of benefit and advantage of exception or otherwise that can be had or may be taken to the many errors, uncertainties and imperfections in the said bill of complaint contained, for answer thereto, or so much

thereof as these defendants are advised that it is material or necessary for them to make answer to, severally answering, say:

I.

These defendants admit that all the lands described in subdivision 1 of plaintiff's amended bill of complaint were acquired by the United States of America from Mexico in the year 1846, the title to which was confirmed to the plaintiffs by the treaty of Guadalupe Hidalgo in the year 1848, but these defendants deny that these lands ever since have been or now are the property of the United States by title in fee simple or by any title or at all, and furthermore deny that at all the times named in the plaintiff's bill of complaint, or at any of the times mentioned therein, subsequent to March 3, 1871, the United States were or still are the owners or the possessors thereof.

The defendants admit that the title to said lands and all thereof was in the United States, the plaintiffs herein, until March 3, 1871, but these defendants deny that any of said lands are or at any time since March 3, 1871, have been the property of the United States, by title in fee or at all, or that the United States are, or at any time since March 3, 1871, have been in the possession of any of the said lands.

These defendants furthermore deny that any of the lands involved in this cause or as set forth in plaintiff's bill of complaint are situated within 40 miles or any number of miles off or from the line of route, or any line of route, of the Texas and Pacific Railroad Company mentioned in any part of said bill of complaint, or on

both sides of the line thereof, or as shown by the map of said company, or any map of said company purporting to locate its line in California or now on file in the general landoffice, or filed therein on the day of , 1871, or at any other time, but these defendants deny that any limits of the Texas and Pacific Railroad Company were ever located or established in the State of California; they furthermore deny that the line of route of the Texas and Pacific Railroad Company, or both sides thereof, were ever established or located in the State of California, or with reference to any lands therein. These defendants furthermore deny that there is any map of said Texas and Pacific Railroad Company locating its line in California now on file in the general landoffice or any other department of the interior. And they furthermore deny that any map in any wise locating the line of the Texas and Pacific Railroad Company was filed in the general landoffice or in any department of the interior on the day of , 1871, or upon any other date. These defendants admit that all of the lands in controversy are within the Southern District of California.

II.

These defendants admit that by an act of Congress, approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," Congress incorporated the Atlantic and Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large quantity of public lands; but they aver that such grant was sub-

ject to the conditions and limitations in said act mentioned, to which said act of Congress reference is hereby made (U. S. Stats., Vol. 14, page 292), and these defendants refer to the whole of said act of Congress.

The said defendants aver that the Southern Pacific Railroad Company, one of the defendants herein, is a corporation organized and existing under and by virtue of the laws of the State of California as hereinafter stated, and is a resident and inhabitant of the Northern District of said State, and a citizen thereof.

The said defendants deny that by section 18 of said act of Congress the United States or Congress agreed to make a grant of lands to the said Southern Pacific Railroad Company upon the same terms, conditions and limitations as were granted to the said Atlantic and Pacific Railroad Company, or upon the condition that the Southern Pacific Railroad Company would make connection with said Atlantic and Pacific Railroad Company. On the contrary, said defendants allege that by section 18 of said act of Congress of July 27, 1866, Congress authorized the Southern Pacific Railroad Company to connect with the said Atlantic and Pacific Railroad Company at such point near the boundary line of the State of California as the Southern Pacific Railroad Company should deem most suitable for a railroad line to San Francisco, and did in direct terms make a grant of lands in the State of California to the Southern Pacific Railroad Company, and subject to the conditions and limitations therein provided.

III.

Said defendants admit that by the act of Congress, approved March 3, 1871, entitled. "An act to incorporate the Texas and Pacific Railroad Company, and to aid in the construction of its line and other purposes" (U. S. Stats., Vol. 16, pages 573-579), Congress incorporated the Texas Pacific Railroad Company, and granted to said company to aid in the construction of said railroad a large quantity of public lands, but said defendants deny that said grant ever attached to or affected any lands within the state of California, and they aver that such grant was made subject to the conditions and limitations in the said act last mentioned, to which said act of Congress reference is hereby made, and these defendants refer to the whole of said act of Congress.

Said defendants deny that said Texas Pacific Railroad Company duly, or in any wise, accepted said grant or the terms and conditions thereof.

Said defendants deny that the said Texas Pacific Railroad Company did within the time required, or in any manner or at all, designate upon the plats or maps, or upon a plat or map, the whole of its line or any part of its line of route under said act of Congress from Marshall, Texas, by way of the points and places named in said act, to San Diego, California, or to Ship's Channel in the bay of San Diego, or between any points on the earth's surface, in the time and manner provided in said act, or in any manner or time, or under any act of Congress, or at all. These defendants furthermore deny that the Texas Pacific Railroad Company on or about October 15, 1871, or upon any date, did file such plat in the

office of the commissioner of the general landoffice, and furthermore deny that such plats or maps, or any plat or map, was approved by the secretary of the interior at that time or at any time. These defendants furthermore deny that such plat as set forth in the plaintiff's bill of complaint, or any plat ever filed by the Texas Pacific Railroad Company, has ever since, or covering any period of time, or at all, been treated by the secretary of the interior, or said officer, or any officer of the interior department as a sufficient or valid location for said railroad, or as any location for said railroads. These defendants furthermore deny that upon the filing of such map in the office of the secretary of the interior, or in the office of any department of the interior, or upon the filing of any map by the Texas Pacific Railroad Company in the office of the secretary of the interior, or in any office of the interior department, the United States withdrew from market or reserved all odd-numbered sections of land in California within sixty miles of the boundary line of Mexico, or reserved any number of odd-numbered sections of land in California within any number of miles of the boundary line of Mexico or at all, or including the lands above described, and furthermore deny that the lands above described are within the limits of said grant or of any grant to said Texas Pacific Railroad Company. These defendants furthermore deny that in pursuance of orders of the secretary of the interior or of the commissioner of the general landoffice, said withdrawal or reservation of said lands, or any withdrawal or reservation of said lands, was made of record in the general landoffice or in the United States district landoffices in California

for the benefit of the Texas Pacific Railroad Company. And these defendants deny that any of the lands described in the plaintiff's amended bill were granted to the Texas Pacific Railroad Company by the act of March 3, 1871, or that any of said lands are within the limits of any land grants made to the said company, or that said company at any time claimed to own or had either a present or prospective right to said lands or any thereof.

These defendants allege that on October 15, 1871, the Texas Pacific Railroad Company filed a plat in the office of the commissioner of the general landoffice, purporting to be a map of the general route of a line of railroad from El Paso to San Diego. That the said plat was a pretense and fraud, prepared and filed for the purpose of deceiving and imposing upon the Government of the United States, and inducing the officers thereof to receive and accept the same as a true and sincere map of the general route of the entire railroad from Marshall, in Texas, to San Diego, in California; and for the purpose of inducing the said officers to believe that the Texas Pacific Railroad Company had, sincerely and in fact, established a general route of the railroad which it was authorized by the said act to construct, and had duly designated the same. That in fact the said map did not show a line of route which the Texas Pacific Railroad Company was authorized by the said act to construct, nor a line of route which had been in any wise established or designated by the said act, nor did the railroad line shown upon the said map extend along the most direct and eligible route, nor along a practical route for a railroad; but in fact no knowledge of the characteristics of the

country had been obtained and no surveys had been made to ascertain, mark or designate the general or other route of the said railroad in California, and the railroad line shown upon the said map was a mere fancied sketch, not drawn from any surveys, in pursuance of any actual designation of a route, nor delineated from a knowledge of the country through which the said map made it appear to pass. That the railroad line shown upon the said map is along a route in California, which the physical features and topography, and other natural objects of the country, make impracticable, and in places impossible, to locate or construct a railroad upon.

IV.

And these defendants further aver that on March 3, 1871, all the lands described in the plaintiff's amended bill were vacant and unappropriated public lands, to which the United States had full title.

That by section 23 of said act of Congress, approved March 3, 1871, the defendant the Southern Pacific Railroad Company was authorized to construct a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to a point on the Colorado river at or near the southeastern boundary of the State of California, along such line as the said company should adopt, and to aid in the construction thereof the said section 23 made a grant of lands to the Southern Pacific Railroad Company to the amount of 10 odd-numbered sections per mile on each side of the line of railroad which it should adopt.

That in April, 1871, the defendant the Southern Pacific Railroad Company filed in the office of the secretary of

the interior its acceptance of the terms, conditions and impositions of the said act of March 3, 1871, which acceptance was in writing, under the corporate seal of said company, and was duly executed in pursuance of the direction of its board of directors theretofore made; that prior to April 3, 1871, the said Southern Pacific Railroad Company duly established the general route of the entire railroad which it was authorized by the said act of March 3, 1871, to construct, and on the said date filed in the office of the commissioner of the general landoffice a plat or map, designating the general line of said railroad from Tehachapi Pass, by way of Los Angeles to Yuma, which map was thereupon duly accepted and approved by the commissioner of the general landoffice, and the secretary of the interior, and on April 21, 1871, the said officers withdrew all odd-numbered sections within thirty miles of the railroad line shown upon the said plat from pre-emption and homestead entry, sales, and other dispositions by the United States, and including the lands in controversy, and all of said lands which lie within thirty miles of said railroad line have remained so withdrawn and reserved from pre-emption and homestead entry, sales or other dispositions continuously since April 21, 1871, and down to the present time.

That the said company commenced the construction of its said railroad in 1871, and prior to December 28, 1877, definitely located and constructed its entire line from Tehachapi Pass by way of Los Angeles to Yuma along the line of route designated by its said plat filed April 3, 1871, and all of said railroad was so completed in a good, substantial and workmanlike manner, and in all respects as required by the said act.

That the said railroad was completed in five several sections, and plats showing the line thereof as the same was definitely located and constructed were filed in the general landoffice and the interior department at various different dates after the year 1871, and prior to December 28, 1877, each and all of which plats were accepted and approved by the commissioner of the general landoffice and secretary of the interior.

The said defendants further allege that the surveyed definite location and construction of the said road were upon the general line as located on April 3, 1871, as aforesaid, and between the points mentioned in the said act of Congress of March 3, 1871; that commissioners, duly appointed by the President of the United States for that purpose, examined the said railroad as it was completed in sections, and prior to December 28, 1877, duly reported to the President of the United States that all of said railroad had been completed in a good, substantial and workmanlike manner, and in all respects as required by the said act.

That the said Southern Pacific Railroad Company is, and for a long time prior to the commencement of this suit was, entitled to have patents issued by the government of the United States to it for all lands granted to it as aforesaid within thirty miles on each side of its said railroad.

V.

Answering paragraph 6 of the plaintiff's amended bill of complaint, the said defendants admit that by the act of Congress of February 28, 1885, all the right of the Texas Pacific Railroad Company, and rights to lands

situated within the State of California and the territory of Arizona, were forfeited and resumed to the United States, but they deny that any lands or any rights to lands in controversy were ever granted to the Texas Pacific Railroad Company, or were ever forfeited or resumed or restored to the public domain by any act of forfeiture or by said act of forfeiture. They admit and aver that no part of said Texas Pacific Railroad had at the time of said act of forfeiture, or has at any time since, been constructed in the State of California.

Answering paragraph 7 of plaintiff's amended bill of complaint, the said defendants deny that all of the tracts of land described in said bill of complaint or any thereof were granted by Congress to said Texas Pacific Railroad Company by said act of Congress of March 3, 1871, and these defendants furthermore deny that from the date of said act of Congress of March 3, 1871, or the date of said grant to said company, or from the date of any grant to said company, or until said lands or the rights to said lands were forfeited by said act of forfeiture of February 28, 1885, said company claimed to own said lands, or had a prospective as well as a present right to said lands. These defendants deny that the said Texas Pacific Railroad Company ever claimed to own the lands involved in this controversy, or the lands set forth in the plaintiff's amended bill of complaint. These defendants deny that the said Texas Pacific Railroad Company had a prospective or a present right to said lands; and furthermore deny that during all of said time said lands were reserved by the United States for the benefit of the Texas Pacific Railroad Company as

against all claims of the defendant the Southern Pacific Railroad Company. The said defendants deny that said lands were ever reserved by the United States for the benefit of said Texas Pacific Railroad Company, or as against any or all claims made by the defendant the Southern Pacific Railroad Company. On the contrary, these defendants allege that said lands were duly withdrawn and reserved for the benefit of the defendant the Southern Pacific Railroad Company as hereinbefore set forth, and ever since have been so withdrawn and reserved.

VI.

Answering paragraph 8 of plaintiff's amended bill of complaint, the said defendants deny that prior to March 3, 1871, a large part or any part of the sections of land designated by odd numbers within the 20 miles, or primary limit of the grant of said Texas Pacific Railroad Company had been sold or reserved or otherwise appropriated or pre-empted, or that homestead claims had attached thereto; the said defendants deny that there ever were any primary limits of the Texas Pacific Railroad Company in the State of California.

These defendants, answering paragraph 9 of plaintiff's amended bill of complaint, deny that the said line of said Texas Pacific Railroad Company or any line of said Texas Pacific Railroad Company was located so near the boundary line of Mexico that there were not sufficient lands in California within the granted limits to satisfy such grant. These defendants deny that any line of the Texas Pacific Railroad Company was ever located with reference to any lands in the State of California so as to es-

tablish the granted limits of the Texas Pacific Railroad Company in the State of California. The said defendants deny that by reason of the facts aforesaid, or by reason of any facts, the Texas Pacific Railroad Company, upon the filing and approval of said map or any map, became invested with a present as well as a valuable prospective right to all of said odd-numbered sections of land within the State of California within forty miles of said line of route, or on both sides thereof, or within any number of miles of the said line of route, or at all, or so far as the lands were located within said State of California. The said defendants deny that the Texas Pacific Railroad Company ever became invested with a present or with a valuable prospective right or any kind of a prospective right to any odd-numbered sections of land within the State of California, or upon the filing or approval of any map in the interior department, or any office thereof, or at all.

VII.

The defendants admit that they make the claims as are set forth in subdivision 10 of plaintiff's amended bill of complaint, except that the Southern Pacific Railroad Company designated the line and filed the plat therein mentioned in the year 1871, instead of the year 1874, but they deny that such claims in whole or in part are a pretense, false or unfounded, and aver that said claims are in each and every particular sincere and true, well-founded and valid.

VIII.

These defendants deny that none of said lands were granted to said Southern Pacific Railroad Company or

any of the other defendants by the said act of March 3, 1871, or that said lands are not of the category, or of the character of the lands described in said act of March 3, 1871, to be granted to the company therein named, and deny that said lands were lands reserved or otherwise claimed, or are still owned by the United States; on the contrary, said defendants allege that the lands were granted by the said act of Congress of March 3, 1871, to the said defendant the Southern Pacific Railroad Company, and were earned by the said defendant the Southern Pacific Railroad Company, by the construction of its road within the time and the manner as required by law, and as hereinbefore stated. The defendants further deny that their claim or claims to said land hinder or embarrass plaintiffs, or prevent the department of the interior from selling or otherwise disposing of said lands or any part thereof; on the contrary, the defendants allege that the plaintiffs have no right, title or interest whatsoever in or to said lands, or any part thereof; that all of said lands were granted to and are owned by these defendants as is hereinbefore particularly set forth; and that the department of the interior has no authority or power to sell or in any wise to dispose of said lands.

IX.

Answering paragraph 12 of the plaintiff's amended complaint, the defendants deny the same and all thereof.

Furthermore, said defendants allege that on or about the 2nd day of December, 1865, a corporation was organized under the laws of the State of California, under the corporate name and style of the Southern Pacific Rail-

road Company, and under a general law of said State, approved May 20, 1861, entitled, "An act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto," which act is printed in the Statutes of California, 1861, p. 601, and prays to refer thereto; that said corporation was formed for the purpose and with the corporate power as stated in the articles of incorporation of constructing, owning and maintaining a railroad from some point on the bay of San Francisco in the State of California, and to pass through the counties of Santa Clara, Monterey, San Luis Obispo, Tulare, Los Angeles and San Diego to the town of San Diego in said State; thence eastward through said county of San Diego to the eastern line of the State of California, there to connect with a contemplated railroad to the Mississippi river; and they refer to said articles of incorporation for the precise contents, purport and effect thereof.

The defendants furthermore allege that on or about the 11th day of October, A. D. 1870, under and by virtue of the general laws of the State of California, on that behalf, the said Southern Pacific Railroad Company, the San Francisco & San Jose Railroad Company, the Santa Clara & Pajaro Valley Railroad Company, corporations organized and existing under the laws of California, entered into articles of consolidation and amalgamation, consolidating and amalgamating their capital stocks, debts, property, assets and franchises, under the name of the Southern Pacific Railroad Company in the manner provided by the laws of California, and such articles were signed, published and filed as provided by the laws

of California, and they pray leave to refer to such articles of consolidation and amalgamation material to any purposes of this suit and to the laws of California, authorizing the same, and to the laws of California affecting the corporations aforesaid, or any of them, and to the amendatory articles of the Southern Pacific Railroad Company filed.

The defendants furthermore allege that on or about the 12th day of August, 1873, under and by virtue of the laws of the State of California, on that behalf, the said Southern Pacific Railroad as it existed after the said consolidation and amalgamation of 1870, and composed of the consolidated and amalgamated companies above referred to, and the Southern Pacific Branch Railroad Company, a corporation organized and then existing under the laws of California, formed for the purpose and with the corporate powers stated in its articles of incorporation of constructing, owning and maintaining a railroad within the State of California, did consolidate and amalgamate their capital stock, debts, property, assets and franchises under the name and style of the Southern Pacific Railroad Company, and entered into articles of consolidation and amalgamation, which said articles were duly signed, published and filed as required by the laws of California, and they pray leave to refer to such articles so far as material to this suit, and to the laws of California, authorizing the same. They aver that such consolidation and amalgamation, and such articles of consolidation and amalgamation were real and not pretended; they deny that said articles of incorporation and consolidation were entered into without any authority from the

United States or from the Congress of the United States, and they deny that by such articles of agreement of consolidation and amalgamation, or by any consolidation and amalgamation, a new capital stock, or a new or different corporation was created or purported to be created, but they aver that the corporation thereafter existing was a consolidation and amalgamation of the theretofore existing corporations, and not a newly created corporation. As to the contents, purport and effect of the articles of incorporation of the consolidated companies, they pray leave to refer to the same if in any wise material to this suit; and they pray leave to refer to the laws of the State of California as existing prior to 1873, authorizing the consolidation and amalgamation of railroad companies incorporated under the laws of the State. The defendants furthermore deny that by said articles of incorporation and amalgamation, the defendant the Southern Pacific Railroad Company surrendered to the United States all or any of the grants, rights, franchises, or privileges theretofore conferred upon it, or upon the Southern Pacific Railroad Company as it existed prior thereto.

X.

Answering paragraph XIII of the plaintiff's amended bill of complaint, the defendants deny each and all thereof, and allege that on or about the day of , 1874, under and by virtue of the laws of the State of California on that behalf, the said Southern Pacific Railroad Company, as it existed after the said consolidation and amalgamation of 1873, and composed of the consolidating and amalgamating companies above referred to, did

consolidate and amalgamate its capital stock, its property and assets and franchises, under the name and style of the Southern Pacific Railroad Company, and entered into articles of consolidation and amalgamation, and that said articles were duly signed, published, and filed as required by the laws of the State of California. They pray leave to refer to said articles so far as material to this suit, and to the laws of California authorizing the same. They aver that such consolidation and amalgamation, and such articles of consolidation and amalgamation, were real and not pretended, they deny that said articles of incorporation and consolidation were entered into without any authority from the United States or from the Congress of the United States, and they deny that by such articles of agreement of consolidation and amalgamation, or by any consolidation and amalgamation, a new capital stock or a new or different corporation was created, or purported to be created, but they aver that the corporation thereafter existing was a consolidation and amalgamation of the theretofore existing corporations, and not a newly-created corporation. As to the contents, purport and effect of the articles of incorporation of the consolidated companies, they pray leave to refer to the same, if anywise material to this suit, and they pray leave to refer to the laws of the State of California, as existing prior to 1873, authorizing the consolidation and amalgamation of railroad companies, incorporated under the laws of the State. The defendants furthermore deny that by said articles of incorporation and amalgamation, the defendant the Southern Pacific Railroad Company surrendered to the United States all or

any of the grants, rights, franchises, or privileges theretofore conferred upon it, or upon the Southern Pacific Railroad Company as it existed prior thereto.

These defendants deny that such articles of consolidation and amalgamation were illegal, or void or unauthorized, or prohibited by the laws of the State of California, or were unauthorized or prohibited by the laws of the United States, or were entered into without authority from the Congress of the United States, or without other competent authority, but, on the contrary, they allege that the consolidation and amalgamation of said railroad companies were made in conformity with the laws of the State of California, whose action in that behalf was fully authorized and recognized by the Congress of the United States, and that such amalgamation and consolidation were and are in all respects valid.

XI.

Answering paragraph XIV of the plaintiff's amended bill of complaint, these defendants admit that they, and each of them, claim some interest in the said lands, but allege that the nature and extent of such claims are well known to the plaintiffs. Said defendants deny that such claims are not based upon any legal or equitable rights to said lands or any thereof; on the contrary, they allege that said claims are well founded in law and in equity, and have been recognized and approved by the plaintiff for a period of more than twenty years last past and prior to the commencement of this suit; the defendants deny that their claims hinder or embarrass the plaintiff in any wise, or prevent the department of the interior

from selling or otherwise disposing of said lands or any lands under the laws of the United States, and furthermore allege that the department of the interior has and could have no right of any nature or authority to sell or dispose of said lands under the laws of the United States.

XII.

The said defendants allege that the defendants D. O. Mills and Gerrit L. Lansing, trustees, claim to be and are trustees of certain mortgages to secure the payment of certain negotiable bonds, and claim that such bonds have been sold, issued, and delivered to various persons for value, and without notice of any claims or ownership of the complainant to said lands, and they deny that such claims are unfounded, or are not based upon any legal or equitable right to such lands, but, on the contrary, allege that such claims are well founded and valid.

And these defendants, further answering, say that heretofore, and on or about the 1st day of April, 1875, the Southern Pacific Railroad Company executed to the defendant D. O. Mills and one Lloyd Tevis a mortgage bearing date of that day, and covering all the lands described in plaintiff's amended complaint, to secure the proposed issue of negotiable mortgage bonds of said Southern Pacific Railroad Company therein referred to, a copy of which mortgage is filed herewith, and marked Defendant's Exhibit "A," and pray to be taken as a part of this answer; that negotiable mortgage bonds, to very large amounts, were from time to time, between said first day of April, 1875, and October first, 1888, duly issued thereunder and sold to and purchased by the public

in good faith, and for full and valuable consideration, and that of such bonds there are now outstanding in the hands of bona fide holders thereof, for value, bonds to the amount of their par value of $31,293,500; that said Gerrit L. Lansing, named as defendant in this suit, has been duly substituted a mortgage trustee thereunder in place and stead of said Lloyd Tevis, named as trustee in said original mortgage.

XIII.

The defendants further allege that heretofore, and on or about the twenty-fifth day of August, 1888, and before the institution of this suit, the said Southern Pacific Railroad Company executed to the Central Trust Company of New York, a corporation created, organized, and existing under and by virtue of the laws of the State of New York, and one of the defendants named in said bill, a further mortgage or deed of trust, covering all the lands described in plaintiff's amended complaint herein, bearing date on said twenty-fifth day of August, 1888, to secure a proposed issue of negotiable mortgage bonds of said Southern Pacific Railroad Company therein referred to, a copy of which mortgage is filed herewith, and marked Exhibit "B," and prayed to be taken as a part of this answer; that negotiable mortgage bonds, to large amounts, were from time to time subsequent to said twenty-fifth day of August, 1888, and prior to the commencement of this suit, duly issued thereunder and sold to and purchased by the public, in good faith and for full value, and valuable consideration, and that of such bonds so issued, prior to the institution of this suit, bonds to the amount of upward

of $10,497,000 are now outstanding in the hands of bona fide holders thereof for value.

XIV.

The defendants further allege that being required so to do by the United States, that said Southern Pacific Railroad Company has from time to time paid all the fees and charges to the United States, upon and in respect to the lands in controversy and their survey, and as demanded by the United States; no part of which has been repaid by the United States.

Answering paragraph XV of the plaintiff's amended bill of complaint, the defendants deny that the defendants are unlawfully removing from any of the lands in suit or from said lands any wood or timber or minerals or other valuable deposits, or are unlawfully threatening to chop down other trees or any trees on said lands, or unlawfully to remove other mineral or valuable deposits thereon, and deny that, unless enjoined, will do so in any manner or at all, or to the great or irreparable injury of the plaintiff.

The said defendants allege that the Colorado River Irrigation Company is a corporation duly organized and existing under and by virtue of the laws of the State of Colorado and is a resident and inhabitant of the district thereof; that on December 8, 1893, the Colorado River Irrigation Company, without notice or knowledge that the plaintiff had or claimed any right to or interest in any of the lands described in the plaintiff's amended bill, purchased from the defendant the Southern Pacific Railroad

Company, for a valuable consideration, all of the said lands described as follows: Bounded on the south by the international line separating California from Mexico, on the north by the railroad station at India, on the east and west by the east and west branches of the canals of the said Colorado River Irrigation Company as finally surveyed. And the said Colorado River Irrigation Company claims to be the owner of all the said lands under said contract of purchase.

And these defendants say that the defendant the Southern Pacific Company is a corporation, duly organized and existing by and in virtue of the laws of the State of Kentucky, but that the Southern Pacific Company has no claim or interest in any of the lands described in the plaintiff's amended bill.

And these defendants deny that their said claim is not, or any of their claims are not, based upon any legal or equitable right to the lands described in the plaintiff's amended bill, and herein say that the claim of each and all of the defendants is well founded and valid.

These defendants furthermore allege that they and each of them are not residents or inhabitants of the Southern District of California, and that none of the defendants in this action are residents of or inhabitants of the Southern District of California. On the contrary, the defendant the Southern Pacific Railroad Company is a resident and inhabitant of the Northern District of California, the defendant D. O. Mills is a resident and inhabitant of the State of New York and of the Southern District of New York, the defendant Gerrit L. Lansing is a resident and

inhabitant of the Northern District of California, the defendant the Southern Pacific Company is a corporation organized, created, and existing under and by virtue of the laws and the statutes of the State of Kentucky, and is a resident and inhabitant of the District of Kentucky, and that defendant the Colorado River Irrigation Company is a corporation created, organized, and existing under and by virtue of the laws of the State of Colorado, and is a resident and inhabitant of the District of Colorado.

These defendants, and each of them, herewith reiterate their pleas to the jurisdiction of this Court heretofore entered and against said jurisdiction.

And these defendants deny all and all manner of matter, cause, or thing in the plaintiff's bill of complaint contained, material or necessary for these defendants to make answer to, and not herein well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of any of the defendants. All of which matters and things these defendants are ready and willing to aver, maintain, and prove, as this Honorable Court may direct, and these defendants pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

JOSEPH D. REDDING,
Solicitor for Defendants.

WM. F. HERRIN,
WM. SINGER, Jr.,
Of counsel.

[Endorsed]: No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America, Plaintiff, vs. Southern Pacific Railroad Co. et al., Defendants. Answer. Service of the within answer is hereby admitted this 31st day of Dec. A. D. 1894. Joseph H. Call, Attorney for Complainant. Filed Dec. 31, 1894. Wm. M. Van Dyke, Clerk.

In the United States Circuit Court, Southern District of California, Ninth Circuit.

UNITED STATES OF AMERICA, Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY and Others, Defendants.
No. 587.

Replication of the United States to the Answer of Defendants.

This replicant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith that he will aver and prove his said bill to be true, certain and sufficient in the law to be answered unto; and that the said answer of the said defend-

ants is uncertain, untrue, and insufficient to be replied unto by this replicant without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this replicant is, and will be, ready to aver and prove as this Honorable Court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

JOSEPH H. CALL,

Special Asst. U. S. Atty., and of Counsel for Complainant.

[Endorsed]: No. 587. In the U. S. Circuit Court, Southern District of California. United States of America, Complainant, vs. Southern Pacific Railroad Co. et al., Defendants. Received a copy this 11th of Jan., 1895. J. D. Redding, by Bicknell & Trask, Solicitor for Said Defendant. Filed Jan. 11, 1895. Wm. M. Van Dyke, Clerk. Joseph H. Call, Special Asst. U. S. Atty.

UNITED STATES
vs.
S. P. R. R. Co., et al.
} No. 587.

(4-83-250.)

Exhibit "A" to Defendants' Answer (Trust Mortgage).

(S. P. R. R. Co to D. O. Mills et al.)

Date. This indenture made and entered into this first day of April, A. D. 1875, by and between the Southern Pacific Railroad Company, a railroad corporation, duly incorporated and organized under and in pursuance of the laws of the State of California, party of the first part, Trustees. and D. O. Mills and Lloyd Tevis, of the city and county of San Francisco, California, parties of the second part, witnesseth: That

Purpose of Mortgage. Whereas, the said party of the first part desires to complete the construction and equipment of its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river, at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen, to the junction Route of railroad. with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to the

Texas Pacific Railroad near Fort Yuma; and also from Los Angeles to Wilmington on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, and to cancel its present bonded indebtedness for construction secured by a mortgage heretofore made and bearing date November first, eighteen hundred and seventy, and to that end intends and is about to issue its first mortgage bonds upon said railroad and telegraph line, and its rolling stock, fixtures, and franchises, and also upon the lands granted to it by Congress, by the act of Congress entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved July twenty-seventh, eighteen hundred and sixty-six, and the act entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy-one, not sold or otherwise disposed of prior to the execution of this mortgage, aggregating as near as can be estimated eleven millions of acres; and

Property Mortgaged includes land grants.

Whereas, heretofore, to wit, on the nineteenth day of December, A. D. eighteen hundred and seventy-four, the board of directors of said company, pursuant to the statute of the State of California, in such cases made and

provided, at a meeting of said board, at which all the members thereof were present, did, by a resolution to that effect, which was unanimously adopted and passed, determine and direct that first mortgage bonds upon said railroad and telegraph line, its rolling stock, fixtures and franchises, and upon said hereinbefore described lands, to the number of forty-eight thousand (forty-four thousand of which shall be for one thousand dollars each, and four thousand of which shall be for the sum of five hundred dollars each), in seven series to be designated by the letters of the alphabet, commencing with the letter "A," and followed by the succeeding letters in regular order to the letter "G," both inclusive, be prepared, executed and issued by the president and secretary of said company. Series "A" to consist of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds, for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight

Board of Directors authorize Mortgage to be made.

Description of Bonds.

thousand, both inclusive. All of said bonds being payable thirty years after date, with interest at the rate of six per centum per annum, payable semiannually. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars; and

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further resolve, that the said series "A" of said bonds shall be executed and issued in substantially the following form, and that the succeeding series of said bonds should be in a similar form, with the necessary changes to conform to said resolutions or orders, which form is as follows, to wit:

The United States of America:

$1,000 in United States Gold Coin — In United States, $1,000 Gold Coin

Form of bond.

(Vignette)

First Mortgage Bond.

No. .... Series "A."

The Southern Pacific Railroad Company (of California), for value received, promise to pay

Rate of interest.

one thousand dollars to Mark Hopkins, or bearer, in the city of New York, thirty years from the date hereof, with interest thereon at

the rate of six per centum per annum from said date, payable semiannually on the first day of October next ensuing, and on the first day of April and October in each year thereafter, in the city of New York, on presentation and surrender of the respective coupons hereunto annexed, both principal and interest payable in United States gold coin at par, dollar for dollar.

This bond is one of series "A" of the first mortgage bonds issued and to be issued by the said Southern Pacific *Pacific* Railroad Company in seven series designated respectively by the letters of the alphabet, commencing with "A" and ending with "G," both inclusive. Series "A," consisting of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight thousand, both inclusive. All of said bonds being payable thirty years after their respective date, with the interest at the

Series.

rate of six per centum per annum, payable semiannually.

Dates.

The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars.

No preference by reason of priority.

The holder of any of such bonds is to have no preference over any other holder of any of said bonds by reason of any priority in date or the time of issuing the same or otherwise.

How secured.

All of said bonds are secured by a mortgage or deed of trust bearing even date with the bonds constituting series "A," duly executed by said company to D. O. Mills and Lloyd Tevis, San Francisco, California, as trustees, upon its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington on San

Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, with all the rolling stock, stations, fixtures and franchises for the permanent use thereof, and the appurtenances thereto now owned or held, or that may be hereafter required by said company for the permanent use of said railroad and telegraph lines.

Includes lands.

Also upon all the lands granted to said company by the Congress of the United States, to aid it in the construction of said railroad and telegraph lines, not sold or otherwise disposed of prior to the execution of said mortgage, aggregating, as near as can be estimated, eleven millions of acres.

In testimony whereof, the Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and these presents to be signed by its president and secretary this first day of April, in the year of our Lord one thousand eight hundred and seventy-five.

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that to each of said bonds there should be attached sixty interest coupons, numbered re-

spectively from one to sixty, inclusive, substantially in the following form, to wit:

Form of coupons.

$30 Series A

Southern Pacific Railroad Company of California.

Coupon. Bond No. ——. No. ——.

Thirty Dollars.

Interest due ———.

Payable in the City of New York in United States Gold Coin.

————————, Secretary.

with such changes in amount in the body and in the coupon as shall be necessary to conform to the order of the board of directors aforesaid, in regard to the several amounts or sums which are payable in each class of bonds; and

Whereas, by an act of Congress of the United States of America, approved on the twenty-seventh day of July, A. D. eighteen hundred and sixty-six, entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," there was granted to the said Southern Pacific Railroad Company, party of the first part, a large body of public lands of the United States, to wit: Every alternate section of public lands, designated by odd numbers, to the amount of ten alternate sections per mile on each side of the

railroad and telegraph line of said company running from the bay of San Francisco to the southeasterly line of the State of California, being about six hundred and thirty-six miles, not sold, reserved, granted, or otherwise appropriated, and free from pre-emption, homestead, or other claims or rights at the time the line of said road is designated by a plat thereof, filed in the office of the commissioner of the general landoffice and such other alternate sections designated by odd numbers as aforesaid, and situated not more than ten miles beyond the limits of the said first alternate sections, which may be selected by said company, in lieu of any of the sections first aforesaid which may have been sold, granted, reserved, pre-empted, occupied as homesteads, or otherwise disposed of, or to which other rights may have attached, as provided in the act of Congress aforesaid for the purpose of aiding in the construction of the railroad and telegraph line of the said party of the first part; and

U. S. Government Land grant.

Whereas, by an act of Congress of the United States, approved on the third day of March, eighteen hundred and seventy-one, entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," there was granted to the said Southern Pacific Railroad Company the authority to construct a line of railroad from a point near Tehachapi

Act of Congress authorizing the company to construct lines to connect with Texas

Pacific Railroad and Atlantic and Pacific Railroad.

Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same rights, land grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to and imposed upon the said Southern Pacific Railroad Company of California, by the aforesaid act of July twenty-seventh, eighteen hundred and sixty-six, before recited, subject to the rights, present and prospective, of the Atlantic and Pacific Railroad Company, which said last line of road is of the length of three hundred and fifty-six and seven one-hundredths miles; and

Mortgage to be executed to trustees.

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a first mortgage upon said road and its rolling stock, stations, fixtures, right of way and franchises, and the lands aforesaid granted by said acts of Congress, not sold or otherwise disposed of, or contracted to be sold, as shown by the books of said company, should be executed under the corporate seal of said company, and be signed by its president and secretary, to D. O. Mills and Lloyd Tevis, both of the city and county of San Francisco, State of California, as trustees for the holders of said bonds; and

Sinking fund $100,000 yearly, commencing 1882.

Whereas, said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds, by setting apart the sum of one hundred thousand dollars of the net income of said road in the year eighteen hundred and eighty-two, and each year thereafter until all of said bonds, principal and interest, shall have been redeemed or paid, in trust to be loaned out at interest, upon good securities, or otherwise invested under the order and direction of said board of directors, or used to redeem said bonds as often as one hundred thousand dollars shall come into the sinking fund, in which case notice shall be published in one paper in the city of San Francisco and two papers in New York City, that bonds will be redeemed at a price not exceeding their par value, and inviting bids for the surrender thereof at prices to be named, not exceeding the par value of said bonds; the lowest bids less than par to be accepted, and bonds redeemed to the extent of the money in the sinking fund.

Redemption of bonds.

Now, therefore, this indenture witnesseth, that the said Southern Pacific Railroad Company, for the better securing of the payment of the principal and interest of the said first mortgage bonds, and in consideration also of the sum of one dollar, to it in hand paid by the

Description of property conveyed to trustees.

said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and aliened, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, convey and confirm unto the said parties of the second part, and to their successors duly appointed, for the execution of the trusts herein set forth, the following property now or hereafter constituted, purchased, acquired, held in possession and owned by said company, to wit: The whole of the railroad and telegraph line of the said company, running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnardero Junction, Salinas Valley and Polonio Pass, to the Colorado river, at or near the "Needles"; also, from Carnadero Junction to San Benito; also, from Los Gatos creek, via Goshen, to the junction with the first mentioned line, between Poso creek and Kern river; also, from the junction near Tehachapi Pass, via Los Angeles, to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph lines, including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering-places, work-shops, machine-shops, machinery, sidetracks, turn-

outs, turn-tables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, full equipments, fixtures, tools and all other property which may be necessarily or ordinarily used in operating or repairing the said railroad, including all of the said property, which is now or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to said railroad, and all the corporate rights, privileges and franchises of said company, pertaining to said road, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues and profits thereof, with all the rights, titles, interests, estate, propety, succession, claim and demand, in law or equity, of the said party of the first part, of, in and to the same, or any part and parcel thereof; to have and to hold the above granted and described premises, property and franchises, with the appurtenances, unto the said parties of the second part, and to the survivor of them, and to their successors, duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies, politic or corporate, who shall have become, or be from time to time, holders of the said "first mortgage bonds," or any of them. Pro-

vided, always, and these presents are upon the express condition that if the said party of the first part, or its successors, shall well and truly pay, or cause or procure to be paid unto the holders, from time to time, of said bonds, and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and all the property, estate, right, franchises, and privileges herein and hereby granted and conveyed, shall cease, determine and be void. But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for a period of six months from and after the time when the same should have been paid, according to the terms of said bonds, then the said parties of the second part, or either of them, upon the refusal of the other, or their successors in said trust, by themselves, or their agents, or servants, in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds, on which the interest or principal shall so be and have so remained in default, as aforesaid, enter into and upon and take possession of all, or in their

Proceedings in event of default in payment.

or his discretion, any part of the said premises and property hereinbefore described, and work and operate the said railroad, and receive the income, receipts and profits thereof, and out of the same pay: First, the expense of running and operating the same, including therein such reasonable compensation as they or he may allow to the several persons employed or engaged in the running and superintendence of the same, and a reasonable compensation to the parties of the second part, or their successors, or such of them as shall act in the premises, for their or his care, diligence and responsibility in the premises. Second, the expenses of keeping the said road, the appurtenances, the locomotives and the rolling stock thereof in good and sufficient repair, to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof. And third, pay as far as the same will suffice, all interest and principal, if any, which may be due on said bonds; and in case of any deficiency to apply said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind, or the said parties of the second part may in such case foreclose this mortgage, and sell and dispose of, according to law, all the rights, property, privileges, franchises, real and personal, with the appurtenances

herein and hereby granted, or so much thereof as may be necessary, and out of the money arising from such sale pay: First, the costs, and charges, and expenses of the foreclosure and sale, including therein reasonable counsel fees for conducting said proceedings, to be allowed and fixed by the Court, but not exceeding thirty thousand dollars. Second, any expenses, costs and charges of the execution of the trust previously incurred and remaining unpaid. Third, a reasonable compensation to the trustees, or one of them, who may act, for their or his care, trouble and service in completing the execution of his trust and the distribution of the proceeds of sale, to be fixed by the Court, but not exceeding twenty thousand dollars. And fourth, to distribute the residue of said proceeds among the holders of said bonds, in proportion to their several interests, until all have been paid in full, principal and accrued interests.

Proceeds from sale of depot lands, etc., not needed for such purpose may be sold and proceeds applied to redemption of bonds.

And the said party of the first part hereby covenants and agrees that if, at any time, any lands now used for depot or shop purposes, or right of way, or water, or any lands not now used, but which may be hereafter used for such purposes, shall, for any cause, cease to be needed or used by said party of the first part for such purposes, the said parties of the second part may sell the same at the price to be agreed upon by the parties of the first and second parts, and apply the money realized

from such sale or sales to the redemption of said bonds in the manner hereinafter provided, in the case of money realized from the sale of lands granted by the United States to the said party of the first part.

And the said party of the first part hereby agrees and covenants to and with the said parties of the second part, and their successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be imposed upon the property herein described and hereby mortgaged, and every part thereof, and the said parties of the second part, the survivor of them, or their successors in said trust, or any one or more of the holders of said bonds, may in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or became in effect a charge or lien thereon, prior to these presents, or to which this mortgage may be subject or subordinate, and for all payments thus made the parties so making the same shall be allowed interest thereon at the rate of seven per centum per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money

Company to pay all taxes, assessments, etc., or, in default, trustees may pay and receive 7% interest on such payments.

wherein they shall have been paid, and the same shall be payable by said party of the first part to said parties of the second part, upon demand in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

Will execute any further conveyances required.

And the said party of the first part further covenants and agrees to and with the said parties of the second part, and their successors in said trust, that they will at any and all times hereafter, upon the request of the said parties of the second part, execute, acknowledge and deliver to the said parties of the second part, all and every such further, necessary and reasonable conveyances and assurances, of the said premises or any part thereof, as may, by the parties of the second part, or the survivor of them, or his or their successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance, and the said parties of the second part, and their successors in said trust, shall be entitled to receive a just and proper compensation for all services rendered by them in the discharge of said trust, and the same shall be deemed to be secured hereby.

Compensation to trustees.

And it is hereby stipulated and agreed that the said parties of the second part, and their successors in said trust, shall not be responsi-

ble for the acts or omissions of any agent or agents employed by him or them, in any manner, in and about the execution of the trust hereby created when such agent or agents are selected with reasonable discretion; or with the approbation, or with the knowledge and without the express disapprobation of said party of the first part, nor shall either of the said parties of the second part be responsible for any act or omission of the other in the execution of said trust.

Agents of trustees.

And, therefore, this indenture further witnesseth: That the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the premises, and also for and in consideration of the sum of one dollar to the said party of the first part in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed and confirmed, and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm unto the said parties of the second part, as trustees, and to their successors and survivor, and their assigns forever.

Conveyance of land to trustees.

All and singular, the said several sections of land so as aforesaid, granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever,

at law or in equity, of, in, or to the same, or any part or parcel thereof, which the said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, hold, own, or be, or become entitled to by force or virtue of the said acts of Congress; saving, excepting and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the said railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

Reserved lands.

To have and to hold all and singular the lands hereby granted or intended to be granted, and each and every part and parcel thereof, with the appurtenances thereunto belonging, unto the said parties of the second part, and their successors and survivor, and their assigns forever, as trustees, for the uses and purposes, and upon the trusts, terms, conditions, and agreements in this indenture set forth and declared.

Provided, always, and these presents are upon the express condition, that if the said party of the first part shall well and truly pay, or cause to be paid, to the holders of said bonds, and every of them, the principal sums

Lands shall revert to and vest in the S. P. R. R. if—

of money therein mentioned, according to the tenor thereof, with the interest thereon, at the times and in the manner heretofore provided, according to the true intent and meaning of these presents, then and from thenceforth this indenture and the estate hereby granted shall cease and determine, and all the right, title and interest in any and all property hereby conveyed to the parties of the second part, not then disposed of under the powers hereby conferred, shall revert to and vest in the said party of the first part.

This indenture further witnesseth, that these presents and the said bonds are made, executed and delivered upon the trusts, terms, conditions and agreements following, that is to say: That all the lands hereinabove conveyed and mortgaged shall be under the sole and exclusive management and control of the said party of the first part, who shall have full power and authority to make contracts for the sale of the same at such price, on such credit or terms of payment, and such other conditions as shall be agreed on by the said parties of the first and second parts, and as shall seem to them best calculated to secure the payment in full of all the bonds issued as hereinbefore provided, until entry or foreclosure by the trustees, as hereinafter provided. But no title to any tract of land, contracted to be sold by the said party of the first part, shall

Land to be under the control of S. P. R. R.

be given until the whole of the purchase money of said tract shall be paid to said parties of the second part, or their successors or survivor, in cash or in said bonds, or overdue coupons thereof. And for this purpose it is agreed that the said party of the first part and said trustees shall cause all such lands, as they shall from time to time become subject to sale, to be carefully examined and surveyed, and shall affix to each tract or parcel such price as in their judgment shall be most judicious, having in view the interests of all parties, and said lands shall be and remain at all times thereafter open for sale to any person who may desire to purchase and pay therefor; the prices being, nevertheless, at all times subject to revision and alteration by the said parties; and the party of the first part may reserve from sale any lands necessary for depot grounds, or other purposes connected with the construction or operation of the said railroad or telegraph.

Payments to be made to trustees.

Land to be graded, etc.

The purchaser of any such land shall be at liberty to pay for the same in the aforesaid bonds or overdue coupons at par; and when any tract or parcel of said lands shall have been purchased and paid for, either in bonds, coupons, or cash, as hereinbefore provided, the same shall be conveyed by the said parties of the first and second parts to the purchaser, in fee simple, and shall by such conveyance

Lands may be

for in bonds and overdue coupons.

be absolutely and forever released from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said party of the first part.

Trustees may convey land by power of attorney.

Provided, that for the sake of convenience in making said conveyances the said trustees shall have power to act by attorney, duly nominated and appointed by them, jointly, by letter of attorney, which shall be duly acknowledged and recorded in each and all of the counties in which said lands or any part thereof are situated; and all deeds made in their names by such attorney shall have the same force and effect as if made by them in person.

Residence of such attorney.

Provided, further, that the attorney so appointed shall be a resident of the city of San Francisco, in the State of California, and shall reside within convenient reach of the party of the first part.

Trustees to cancel bonds and coupons.

The said trustees shall and will cancel and discharge each and every bond and the coupons thereon, and all overdue coupons, which they may receive in payment for land, or by purchase, by defacing the seal of the corporation, perforating the signature of the president and secretary, and drawing lines across each of the interest coupons, on receipt thereof; and all bonds and coupons received in payment for lands, as aforesaid, shall, when so canceled, be delivered to the said party of the first part.

Proceeds of sales of lands shall be applied to the purchase of bonds.

The said trustees shall apply the proceeds of the sales made by them of lands hereby conveyed, to the sole and exclusive purpose of the payment of the bonds provided for in, and issued in conformity to, the term of this indenture.

And for such purpose all such avails shall, from time to time, as the same are realized, be used in the purchase of such bonds in the market, to be canceled, so long as purchases thereof can be made at par; and whenever such bonds cannot be purchased at that rate, said trustees shall advertise for proposals to sell such bonds to them in two newspapers published in the city of New York, and one newspaper published in the city of San Francisco; and after receiving such proposals they shall have power to purchase such bonds at the lowest terms so offered.

How bonds shall be purchased.

The said party of the first part does hereby covenant and agree to pay to the holders of said bonds, respectively, the said principal sums of money therein mentioned and the interest thereof as aforesaid.

If any default shall be made in the payment either of principal or interest on any of said bonds for six months, after demand at the place of payment when the same shall become due, then the said trustees may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and

take possession of any of the lands above conveyed, and foreclose this mortgage, and may sell at public auction so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the costs, charges, and expenses of such entry, foreclosure and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and the said trustees may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage, and sell at public auction all said lands or so much thereof as may be necessary, first giving at least six months previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges and expenses of such last-mentioned entry, foreclosure and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part. In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute and deliver

In event of default in payments for six months, trustees may foreclose mortgage and dispose of lands at public auction sufficient to discharge all arrears.

a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

Foreclosure proceedings for interest to cease if interest is subsequently paid.

If after any such entry shall be made or any such foreclosure proceedings shall be commenced for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustees, and pay all the costs, charges and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustees shall discontinue their proceedings thereon, and restore to the said party of the first part all of such lands to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced. In case a vacancy shall happen in the number of trustees, hereinbefore mentioned as parties of the second part in this indenture, or if one of them shall be temporarily absent, the remaining trustee shall, while said vacancy or absence exists, have all the rights, exercise all the

powers and discharge all the duties devolving on said trustee by said instrument. But as soon as it conveniently may be done, such vacancy shall be filled by the nomination by the remaining trustee of some proper person to fill such vacancy, which nomination shall be submitted to the board of directors of said company, and, if approved by them, the person so nominated and approved immediately shall become a trustee under this instrument. If said nomination is not approved, another person shall be nominated by said remaining trustee, and in like manner submitted for approval, and so on till three nominations shall have been made. But if three successive nominations shall be made, and none of them shall be approved by said board, said vacancy shall be filled by a committee of three persons, selected, one by said remaining trustee, one by said board of directors, and a third by the two thus selected, and the person appointed trustee by a majority of the committee shall be and remain a trustee under this instrument. And the person regularly appointed a trustee to fill a vacancy in either of the forms above specified shall from and after his said appointment, and his acceptance of the appointment, become vested with the same estates, powers, rights and interests, and charged with the same duties and responsibilities, as if he had been one of the original trustees, parties of the

How vacancy in trustees is to be filled.

second part, named in and executing this instrument; and the prior remaining trustee may and shall execute such conveyances and instruments as may be proper or necessary to vest the same in such new trustee jointly with him, or to furnish evidence of such vesting. If at any time either of the said trustees shall resign his place as trustee by a proper deed in writing to that effect, and such resignation shall be accepted by the said party of the first part, then, and in every such case, the place of such resigning trustee thereupon shall become and be vacant.

Reconveyance by trustees upon payment of bonds and interest.

Whenever all the bonds shall have been made and issued by the said party of the first part under and in conformity to the provisions of this indenture, with the interest thereon, together with all the expenses incurred by the said trustees in the execution of the trust herein and hereby created, shall have been fully paid and satisfied, the said trustees shall reconvey to the said party of the first part all and singular the said lands then in the hands of the said trustees, and not before that time sold or disposed of, in the execution of the trust hereby created. In case the said trustees shall at any time have any trust moneys on hand, received from the sale of the lands hereby conveyed, which will not be required to meet any immediate liabilities of the company, to which said moneys are by these presents devoted, the

said moneys shall be loaned on interest, or deposited on interest, with some bank or trust company in the city of San Francisco or Sacramento, subject to be drawn by checks signed by the trustees or such one of them as they may designate. All of the books of the said company, and of the trustees, relating to the lands hereby conveyed, shall be mutually open to the inspection of said company and said trustees. It shall be the duty of the said trustees to certify and deliver to the said party of the first part the said bonds, as the same from time to time shall be demanded, issued or used by the said party of the first part.

Deposit of surplus moneys by trustees.

And it is hereby mutually agreed by and between the parties hereto that the said parties of the second part, and their survivor and successors, and their heirs, executors and administrators, shall not be answerable for the acts, omissions or defaults of each other, nor for anything short of their own gross negligence or willful misfeasance.

Responsibility of trustees.

It is hereby declared by the parties to this indenture, that all the provisions of said acts of Congress, so far as they are applicable, are hereby made and shall be deemed and taken to be a part of this instrument; and the said provisions in all that concerns the sale and disposal of the said lands hereby conveyed to the parties of the second part are to be observed and strictly and faithfully carried out and fulfilled.

Provisions of acts of Congress to be observed.

And the said party of the first part covenants and agrees to and with the said parties of the second part, that the said party of the first part shall and will, at any and all times hereafter, and from time to time, execute, acknowledge, and deliver, under its corporate seal, to the said parties of the second part, and their survivors and successors, all such other or further assurances, deeds, mortgages, obligations, transfers, indentures and instruments in writing, and shall and will do and perform all such other or further acts or things as shall or may be necessary or proper, or as their counsel, learned in the law, shall deem necessary, proper, or expedient for the better or more effectually securing upon the above conveyed and mortgaged premises the payment of the said bonds so to be issued, and the interest due and to grow due thereon in manner aforesaid, or for carrying into effect the true intent, design, objects, and purposes of these presents. And the said parties of the second part hereby accept the trust created and declared by this instrument, and agree to discharge the same pursuant to the provisions in that behalf herein contained.

Will execute further instruments if necessary to secure payments of bonds.

In witness whereof, the said Southern Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal, and the above parties of the second part have

hereunto set their hands and seal, the day and year first above written.

[Corporate Seal
S. P. R. R. Co.]

CHARLES CROCKER,
President Southern Pacific Railroad Company.

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

We accept the trust declared in the foregoing instrument.

D. O. MILLS, [Seal]
LLOYD TEVIS, [Seal]
Trustees.

State of California,
City and County of San Francisco. } ss.

On this third (3rd) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president of the Southern Pacific Railroad Company, and J. L. Willcutt, known to me to be the secretary of the Southern Pacific Railroad Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this third day of July, A. D. 1875.

[Notarial Seal.] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

I, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, residing in the city of San Francisco, duly commissioned and sworn, do certify that on the sixth (6th) day of July, in the year one thousand eight hundred and seventy-five (1875), personally appeared before me in the city and county of San Francisco, State of California aforesaid, Charles Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individuals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally, then and there, acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being by me duly sworn, did depose and say that he resides in the city and county of San Francisco, State of California; that he is and was secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and

was by him so affixed by order of the board of directors of the said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was and is acquainted with Charles Crocker, and knows that said Charles Crocker is and was president of the Southern Pacific Railroad Company at the date of said instrument; that the signature of the said Charles Crocker subscribed to said instrument is in the genuine handwriting of the said Charles Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, the sixth day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this seventh (7th) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared D. O. Mills and Lloyd Tevis, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, this seventh day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Filed for record at the request of D. W. Parkhurst, and recorded in office of the county recorder of San Mateo county, July 8, 1875, at 5 P. M., in Liber 11 of Mortgages, at page 2 and following.

Witness my hand and seal of office.

Paid, $22.50.

[Seal] GEO. H. RICE,
County Recorder.
By W. R. Thomas,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 9 o'clock and 26 minutes, A. M., and recorded in Book 15 of Mortgages, at page 156 et seq., Records of the County of Santa Clara, in the State of California.

Witness my hand and seal of office.

Paid, $15.

[Seal] W. J. COLAHAN,
County Recorder.
By F. J. Saxe,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 8 o'clock and 53 minutes, P. M., and

recorded in Book 1 of Mortgages, at page 586 and following, Records of San Benito County, in the State of California.

Witness my hand and seal of office.

Fees, $15, paid.

[Seal] H. M. HAYES,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 10, A. D. 1875, at 8 o'clock and 10 minutes, P. M., and recorded in volume 17, page 529 and following pages of the Mortgage Records of the County of Santa Cruz, in the State of California.

Witness my hand and seal of said county recorder.

Paid, $15.00.

[Seal] H. E. MAKINNEY,
County Recorder in and for Santa Cruz County.

Filed for record at the request of D. W. Parkhurst, July 12, A. D. 1875, at 9 o'clock and 55 minutes, A. M., and recorded in Book 1 of Mortgages, page 183 and following, Records of the County of Monterey, in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] HERBERT MILLS,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 13, A. D. 1875, at six o'clock and 25 minutes, P. M., and recorded in Book "C" of Mortgages, page 540 et seq., Records of the County of San Luis Obispo, in the State of California.

Witness my hand and seal of office county recorder.
Fees, $15.
[Seal] CHAS. W. DANA,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 14, A. D. 1875, at 2 o'clock and 20 minutes, P. M., and recorded in Book "F" of Mortgages, pages 164 and following, Records of the County of Santa Barbara, in the State of California.

Witness my hand and seal of office of county recorder.
Fees, $15, pd.
[Seal] H. P. STONE,
County Recorder.
By J. O. B. Wentling,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 16, A. D. 1875, at 8 o'clock and 40 minutes A. M., and recorded in Book 15 of Mortgages, page 600 et seq., Records of the County of Los Angeles, in the State of California.

Witness my hand and seal of office county recorder.
Fees, $15, pd.
[Seal] J. W. GILLETTE,
County Recorder.
By D. S. Lovejoy,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 19, A. D. 1875, at nine o'clock and 15 minutes A. M., and recorded in Book Volume 2 of Mortgages, pages 217

and following, Records of the County of Kern in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] F. W. CRAIG,
County Recorder.

Filed for record at the request of D. W. Parkhurst, Esq., July 20, A. D. 1875, at 8 o'clock and 15 minutes, P. M., and recorded in Book "D" of Mortgages, pp. 310 et seq., Records of the County of Fresno, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] A. M. CLARK,
County Recorder.
By C. L. Wainwright,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 21, A. D. 1875, at 10 o'clock and 30 minutes, A. M., and recorded in Book "K" of Mortgages, page 1 et seq., Records of the County of Tulare, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] J. E. DENNY,
Recorder.
By John G. Knox,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 23, A. D. 1875, at 10 o'clock and 40 minutes, P. M., and recorded in Book "D" of Mortgages, 544 et seq., Re-

cords of the County of San Bernardino, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] SYDNEY P. WAITE,
County Recorder.
By R. S. Swing,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 26, A. D. 1875, at 10 o'clock and 20 minutes, A. M., and recorded in Book No. 7 of Mortgages, pages 103 et seq., Records of the County of San Diego, in the State of California.

Witness my hand and seal of office of county recorder.

Fees, $15.

[Seal] A. S. GRANT,
County Recorder.
By E. G. Haight,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 28, A. D. 1875, at 24 minutes past 4 P. M., and recorded in Book No. 2 of Mortgages, pages 46 et seq., Records of the County of Ventura, State of California.

Witness my hand and seal of office of county recorder.

Fees, $18.

[Seal] JOHN T. STOW,
County Recorder.

Recorded at request of D. W. Parkhurst, August 3, A. D. 1875, at 1 P. M., in Liber 443 of Mortgages, page 309,

in the office of the county recorder of the city and county of San Francisco, State of California.

O. H. FRANK,
County Recorder.

Recorded at request of Wells, Fargo & Co., August 20, 1880, at 20 min. past 9 A. M., in Book 1 of Mortgages, page 557 et seq., Records of Merced County.

$15.

[Seal] E. J. HAMILTON,
County Recorder.
By M. H. Walsh,
Deputy.

Recorded at request of Wells, Fargo & Co., August 23d, A. D. 1880, at 5 min. past 9 o'clock A. M., in Vol. 15 of Mortgages, at pages 139 et seq., Records of Stanislaus County.

$15 paid.

[Seal] JOHN McCOY,
Recorder.

Recorded at request of J. L. Willcutt, September 6th, 1880, at 30 min. past 10 o'clock A. M., in Liber 624 of Mortgages, page 305, in the office of the county recorder of the city and county of San Francisco, State of California.

[Seal] W. K. DIETRICH,
County Recorder.
Per Richard Blauvelt,
Deputy.

To the President and Board of Directors of the Southern Pacific Railroad Company, and All Other Persons Concerned:

Resignation of Lloyd Tevis, trustee.

Know ye, that I, Lloyd Tevis, one of the trustees under a certain indenture made and entered into on the first day of April, A. D. 1875, by and between the Southern Pacific Railroad Company, a railroad corporation duly incorporated and organized under and in pursuance of the laws of the State of California, party of the first part, and D. O. Mills and Lloyd Tevis, of the city and county of San Francisco, California, parties of the second part, have this day resigned, and do hereby resign, the position of said trustee under said indenture, in pursuance of the provisions thereof.

In testimony whereof, I have hereunto set my hand and seal on this the 24th day of March, A. D. 1883.

LLOYD TEVIS. [Seal]

State of California,
City and County of San Francisco. } ss.

On this twenty-seventh (27th) day of March, in the year one thousand eight hundred and eighty-three (1883), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Lloyd Tevis, known to me to be the person whose name is subscribed to the

above instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this twenty-seventh day of March, A. D. 1883.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

To the Southern Pacific Railroad Company and to its Board of Directors:

Lloyd Tevis, of the city and county of San Francisco, one of the trustees named in a certain indenture made and entered into on the first day of April, 1875, between the Southern Pacific Railroad Company, party of the first part, and D. O. Mills and Lloyd Tevis, of the city and county of San Francisco, parties of second part, having duly resigned his place as trustee by proper deed in writing to that effect, and such resignation having been accepted by the party of the first part, and thereby the place of such resigning trustee having become and now is vacant:

Nomination of Gerrit L. Lansing for trustee submitted to the board of directors.

Therefore, I, the remaining trustee, in accordance with the provisions of said indenture in this respect, do hereby nominate Gerrit L. Lansing a proper person to fill such vacancy, and do hereby submit to the board of directors of said company such nomination for the approval of said board.

Dated in New York this third day of April, A. D. 1883.

D. O. MILLS. [Seal]

Witness:

EDWIN F. COREY.

State of New York,
City and County of New York. } ss.

Be it remembered that on this third day of April, in the year one thousand eight hundred and eighty-three, before me, the undersigned, Edwin F. Corey, a commissioner, resident of the city of New York, duly commissioned and qualified by the executive authority and under the laws of the State of California to take acknowledgment of deeds, etc., to be used or recorded therein, personally appeared D. O. Mills, known to me to be the person whose name is subscribed to the within instrument, and he acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first aforesaid.

[Commissioner's Seal] EDWIN F. COREY, Commissioner for State of California. Office, 54 Wall Street, N. Y.

Whereas, on the first day of April, 1875, this company conveyed all its railroad and telegraph lines, its rights of way, roadway, tracks, and other property, including all its lands, to D. O. Mills and Lloyd Tevis, upon certain trusts therein declared;

And whereas, on the twenty-fourth day of March, 1883, said Lloyd Tevis resigned his trust under said conveyance;

And whereas, on the third day of April, 1883, the said D. O. Mills, pursuant to the conditions of said trust, did nominate Gerrit L. Lansing, of the city of San Francisco and State of California, as a fit and proper person to fill the vacancy caused by the said resignation of the said Lloyd Tevis;

Nomination of Gerrit L. Lansing approved by the board of directors.

Now, therefore, it is ordered that the said nomination be approved, and that the said Gerrit L. Lansing be, and he is hereby, appointed to fill said vacancy.

Witness the corporate seal of said Southern Pacific Railroad Company, and the hands of its president and secretary hereunto fixed and set on this, the 17th day of April, A. D. 1883.

[Corporate Seal
S. P. R. R. Co.]

CHARLES CROCKER,
President.

J. L. WILLCUTT,
Secretary.

State of California,
City and County of San Francisco. } ss.

On this nineteenth (19th) day of April, in the year one thousand eight hundred and eighty-three (1883), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the corporation that executed the within instrument, and ac-

knowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this nineteenth (19th) day of April, A. D. 1883.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Know all men by these presents:

That whereas, on the first day of April, A. D. 1875, the Southern Pacific Railroad Company, a railroad corporation duly incorporated under and pursuant to the laws of the State of California, did, by an instrument in writing, convey all its railroad and telegraph lines, its rights of way, roadways, tracks, and other property, including all its lands, to D. O. Mills and Lloyd Tevis, upon certain trusts declared in said conveyance;

And whereas, on the 24th day of March, 1883, said Lloyd Tevis resigned his trust under said conveyance;

And whereas, on the third day of April, 1883, the said D. O. Mills, pursuant to the conditions of said trust, did nominate Gerrit L. Lansing, of the city of San Francisco, and State of California, as a fit and proper person to fill the vacancy caused by the said resignation of the said Lloyd Tevis;

Acceptance of Gerrit L. Lansing as trustee.

And whereas, on the 17th day of April, 1883, the board of directors of said Southern Pacific Railroad Company did approve the said nomination:

Now, therefore, I, the said Gerrit L. Lansing, pursuant to the provisions of said trust

mortgage, do hereby accept the trust created by said mortgage as the successor of said Lloyd Tevis.

In witness whereof, I have hereunto set my hand and affixed my seal this 18th day of April, A. D. 1883.

GERRIT L. LANSING. [Seal]

State of California, } ss.
City and County of San Francisco. }

On this nineteenth (19th) day of April, in the year one thousand eight hundred and eighty-three (1883), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Gerrit L. Lansing, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this nineteenth (19th) day of April, A. D. 1883.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Filed for record at request of R. G. Oliver, May 22nd, A. D. 1883, at 10 o'clock A. M., and recorded in Book 17 of Mortgages, page 22 et seq., Records of the County of San Mateo, in the State of California.

Witness my hand and seal of county recorder.

[Seal] J. W. BICKNELL,
County Recorder.
By H. B. Thompson,
Deputy.

Filed for record at request of R. G. Oliver, May 22nd, A. D. 1883, at 5 minutes past 2 o'clock P. M., and recorded in Book "J" of Miscellaneous Records, pages 448 et seq., Records of the County of Santa Clara, in the State of California.

Witness my hand and seal of county recorder.

[Seal] J. M. PITMAN,
County Recorder.
By Geo. Fethersten,
Deputy.

Filed for record at the request of R. G. Oliver, May 23d, A. D. 1883, at 20 minutes past 9 o'clock A. M., and recorded in Book 6 of Mortgages, pages 528 and following, Records of the County of San Benito, in the State of California.

Witness my hand and seal of county recorder.

[Seal] THOS. F. McMAHON,
County Recorder.
By Wm. McCarthy,
Deputy Recorder.

Filed for record at the request of R. G. Oliver, May 24th, A. D. 1883, at 50 minutes past 9 o'clock A. M., and recorded in volume 37 of Mortgages, at pages 1 and following, Records of the County of Santa Cruz, in the State of California.

Witness my hand and seal of county recorder.

[Seal] H. E. MAKINNEY,
County Recorder.

Filed for record at the request of R. G. Oliver, May 24th, 1883, at 40 minutes past 4 P. M., and recorded in Liber "S" of Mortgages, at pages 163 and following, Records of Monterey County, State of California.

Witness my hand and seal of county recorder.

[Seal] M. M. SPEEGLE,
County Recorder.

Filed for record at request of R. G. Oliver, May 26, A. D. 1883, at 4 o'clock and 5 minutes P. M., and recorded in Book 1 of Mortgages, page 240 et seq., San Luis Obispo County Records, State of California.

Witness my hand and seal of county recorder.

[Seal] F. E. DRAKE,
County Recorder.

Filed for record at the request of R. G. Oliver, May 31st, A. D. 1883, at 9 o'clock and 20 minutes A. M., and recorded in Book B of Miscellaneous Records, pages 446 et seq., Records of the County of Santa Barbara, in the State of California.

Witness my hand and seal of county recorder.

[Seal] H. STODDARD,
Recorder.

Filed for record at the request of R. G. Oliver, May 31st, A. D. 1883, at 4 o'clock and 30 minutes P. M., and recorded in Book 2 of Miscellaneous Records, pages 108 et seq., Records of the County of Ventura, in the State of California.

Witness my hand and seal of county recorder.

[Seal] JOHN J. STOW,
Recorder.
By Robt. W. Forth,
Deputy.

Filed for record at the request of R. G. Oliver, June 2d, 1883, at 43 minutes past 2 o'clock P. M., and recorded in Book 50 of Mortgages, pages 256 et seq., Records of Los Angeles County, State of California.

Witness my hand and seal of county recorder, Los Angeles Co., Cal.

[Seal] CHAS. E. MILES,
Recorder.
By W. B. Pritchard,
Deputy.

Filed for record at the request of R. G. Oliver, June 5th, A. D. 1883, at 40 minutes past 11 A. M., and recorded in Book "M" of Mortgages, pages 565 et seq., Records of the County of San Bernardino, in the State of California.

Witness my hand and seal of county clerk, who is ex officio county recorder.

[Seal] W. F. HOLCOMB,
County Recorder.
By E. A. Nisbet,
Deputy.

Filed for record at the request of R. G. Oliver, June 6th, A. D. 1883, at 10 o'clock and 5 minutes A. M., and recorded in Book No. 12 of Mortgages, pages 1 et seq., Rec-

ords of the County of San Diego in the State of California, this June 6th, 1883, at 2 o'clock P. M.

Witness my hand and seal of county recorder.

[Seal] E. G. HAIGHT,
County Recorder.
By H. T. Christian,
Deputy.

Filed for record at the request of R. G. Oliver, June 9th, A. D. 1883, at 9 o'clock and 10 minutes A. M., and recorded in Book Vol. six (6) of Mortgages, pages 116 et seq., Records of the County of Kern, in the State of California.

Witness my hand and seal of county recorder.

[Seal] A. T. LIGHTNER,
County Recorder.

Filed for record at the request of R. G. Oliver, June 11th, A. D. 1883, at 9 o'clock and 40 minutes A. M., and recorded in Book "S" of Mortgages, pages 612 et seq., Records of the County of Tulare, in the State of California.

Witness my hand and seal of county recorder.

[Seal] J. E. DENNY,
County Recorder.

Filed for record at the request of R. G. Oliver, June 12th, A. D. 1883, at 7 o'clock and 40 minutes A. M., and recorded in Book "O" of Mortgages, pages 43 et seq., Records of the County of Fresno, in the State of California.

Witness my hand and seal of county recorder.

[Seal] A. M. CLARK,
County Recorder.
By A. C. Williams,
Deputy Recorder.

Filed for record at the request of R. G. Oliver, June 12th, A. D. 1883, at 3 o'clock and 35 minutes P. M., and recorded in Book "A," Miscellaneous Records, pages 174 et seq., Records of the County of Merced, in the State of California.

Witness my hand and seal of county recorder.

[Seal] J. S. McSWAIN,
County Recorder.

Filed for record at the request of R. G. Oliver, June 13th, A. D. 1883, at 10 o'clock and 30 minutes A. M. Recorded in Book Vol. nineteen (19) of Mortgages, pages 308 et seq., Records of the County of Stanislaus, in the State of California.

Witness my hand and seal of county recorder.

[Seal] JOHN McCOY,
County Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, June 15th, 1883, at 15 minutes past 12 o'clock M., in liber 45 of Miscellaneous, page 54, at the request of R. G. Oliver.

[Seal] WM. J. BRYAN,
County Recorder.
Per Henry Casey,
Deputy.

[Endorsed]: Trust Mortgage. Southern Pacific Railroad Co. to D. O. Mills and Lloyd Tevis, Trustees. Dated April 1st, 1875. Resignation of Lloyd Tevis and appointment of Gerrit L. Lansing. Acceptance April 18th, 1883. Filed Jan. 22, 1895. Wm. M. Van Dyke, Clerk.

UNITED STATES
vs.
S. P. R. R. CO. et al. } No 587.

Exhibit "B" to Defendants' Answer (Deed of Trust.)

S. P. R. R. Co., S. P. Co., and Central Trust Co. of N. Y.

This indenture, made this 25th day of August, 1888, between the Southern Pacific Railroad Company a railroad corporation, duly organized and existing under the laws of the United States and of the State of Calfornia, party of the first part, the Southern Pacific Company, a corporation organized and existing under the laws of the State of Kentucky, and lessee of portions of the Southern Pacific Railroad, party of the second part, and the Central Trust Company of New York, a corporation created, organized and existing under the laws of the State of New York, party of the third part, witnesseth:

That whereas, the Southern Pacific Railroad Company, as it existed prior to the consolidation and amalgamation hereinafter set out, did, to secure the payment of its bonds in the sum of $46,000,000, heretofore, to wit, on the first day of April, 1875, make and execute its first mortgage on its entire line of railroad as then constituted, to wit, on the whole of its railroad and telegraph line running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley, and Polonio Pass, to the Colorado river at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line,

between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro bay, aggregating eleven hundred and fifty (1,150) miles of railroad and telegraph line, more or less, and on the several sections of land granted to said Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, as stated in said mortgage, saving, excepting, and reserving, however, all parts and parcels of said lands which had been sold or contracted to be sold or disposed of theretofore, or which were or should be included in the rights of way of said railroads and telegraph lines of said company as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

And whereas, subsequent thereto, by instrument in writing dated the fourth day of May, 1888, and pursuant to the laws of the State of California in such cases made and provided, the San Jose and Almaden Railroad Company, the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the Monterey Extension Railroad Company, the Southern Pacific Branch Railway Company, the San Pablo and Tulare Railroad Company, the San Pablo and Tulare Extension Railroad Company, the San Ramon Valley Railroad Company, the Stockton and Copperopolis Railroad Company, the Stockton and Tulare Railroad Company, the San Joaquin Valley and Yosemite Railroad Company, the Los Angeles and San Diego Railroad Company, the Los Angeles and Inde-

pendence Railroad Company, the Long Beach, Whittier and Los Angeles County Railroad Company, the Long Beach Railroad Company, the Southern Pacific Railroad Extension Company, and the Ramona and San Bernardino Railroad Company (railroad corporations organized and existing under the laws of the State of California) amalgamated and consolidated their capital stocks, debts, properties, assets, and franchises with the capital stock, debts, properties, assets, and franchises of the Southern Pacific Railroad Company of California.

And whereas, by force and effect of said amalgamation and consolidaton, the said party of the first part has succeeded to all of the debts, properties, assets, and franchises of said several railroad companies, and now holds and owns the several lines of railroad heretofore owned and held by them respectively, together with their respective properties, assets, and franchises.

And whereas, the said Pajaro and Santa Cruz Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of five hundred and thirty (530) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of January, 1885, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the first day of January, 1885, to S. T. Gage and E. B. Ryan, and covering its railroad, commencing at the town of Pajaro, in the county of Monterey, in the State of California, and extending thence to the city of Santa Cruz, in the county of Santa Cruz, in said State, with a branch line commencing at the town of

Aptos, in said county of Santa Cruz, and running thence in a northerly and northeasterly direction, following the meanders of Aptos creek to the point of confluence of said creek with the creek running from White's Lagoon, a distance of twenty-six miles, as near as may be, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Monterey Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two hundred and fifty (250) of its twenty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1880, bearing interest at the rate of five per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the ninth day of March, 1880, to Stephen T. Gage and E. B. Ryan, and covering the whole of the railroad line of said company, commencing at or near the town of Castroville, in the county of Monterey, in the State of California, and running through the county of Monterey to a point at or near the city of Monterey in said county, a distance of fifteen and four-tenths (15.4) miles, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Southern Pacific Branch Railway Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of nine thousand of its fifty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1887, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust

bearing date the twenty-fourth day of November, 1886, to William E. Brown and Gerrit L. Lansing, and covering the whole of the railroad line of the said company, commencing at a point near San Miguel, in the county of San Luis Obispo, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company, near Newhall, in said Los Angeles county, a distance of about two hundred and fifty miles, as near as may be, together with all the corporate rights pertaining to said road, its appurtenances, etc.

And whereas, the said San Pablo and Tulare Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of three thousand seven hundred and fifty (3,750) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1878, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of September, 1878, to Albert Gallatin and Charles Miller, and covering its line of railroad, constructed and unconstructed, running from a point at or near Martinez, in the county of Contra Costa, through the counties of Contra Costa, San Joaquin, Stanislaus, Merced, and Fresno, to a point at or near Los Gatos creek, a distance of one hundred and fifty (150) miles, as near as may be, with all rolling stock, appurtenances, etc.

And whereas, the said Los Angeles and San Diego Railroad Company, to aid in the construction of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two thousand eight hundred (2,800) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of July, 1880, with interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of December, 1880, to S. T. Gage and E. B. Ryan, and covering its railroad line constructed and unconstructed, from the city of Los Angeles, in a southerly direction, to the city of San Diego, in the southwestern part of the State of California, with all rolling stock, appurtenances, etc., a distance of 140 miles, as near as may be.

And whereas, there are now outstanding $530,000 of said Pajaro and Santa Cruz Railroad Company's bonds; $220,000 of said Monterey Railroad Company's bonds (the balance of $30,000 having been redeemed, canceled and retired); $3,145,000 of said Southern Pacific Branch Railway Company's bonds (the balance, $5,855,000, being unissued and in the hands of the party of the first part); $1,023,000 of said San Pablo and Tulare Railroad Company's bonds (the balance, $2,727,000, being unissued and in the hands of the party of the first part); and $556,000 of the said Los Angeles and San Diego Railroad Company's bonds (the balance, $2,244,000, being unissued and in the hands of the party of the first part).

And whereas, said mortgages and each of them are valid and subsisting liens upon the lines of railroad heretofore described, and now the property of the party of the first part.

And whereas, the owners of all the outstanding bonds heretofore issued as aforesaid by the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the San Pablo and Tulare Railroad Company, and the Los Angeles and San Diego Railroad Company are willing to surrender said bonds and permit the respective mortgages heretofore made to secure the payment thereof, and hereinbefore described, to be satisfied of record and canceled, and receive in lieu thereof new fifty-year five per cent bonds secured by this mortgage.

And whereas, the party of the first part desires and intends to redeem and take up said mortgage bonds issued by said constituent companies, to-wit, the outstanding mortgage bonds of the Pajaro and Santa Cruz Railroad Company in the sum of $530,000, the outstanding mortgage bonds of the Monterey Railroad Company in the sum of $220,000, the outstanding mortgage bonds of the San Pablo and Tulare Railroad Company in the sum of $1,023,000, and the outstanding mortgage bonds of the Los Angeles and San Diego Railroad Company in the sum of $556,000, and retire the same, and to destroy, cancel, and retire the unissued bonds of the San Pablo and Tulare Railroad Company in the sum of $2,727,000, and the unissued bonds of the Los Angeles and San Diego Railroad Company in the sum of $2,244,000 and cause said existing mortgages to be satisfied of record and canceled, and, as rapidly as the same can be done upon terms satisfactory to the party of the first part, to arrange for the redemption of the mortgage bonds issued by said Southern Pacific Branch Railway Company, and when arrangements have been made for the redemption of all of such bonds

to cause the same to be canceled, and the mortgage securing the same to be satisfied of record, and in lieu of said outstanding bonds to issue new fifty-year five per cent bonds secured by this mortgage, and said party of the first part desires and intends to pay off and discharge the floating debt incurred in the construction and completion of certain portions of its lines of railroad, and desires to complete the construction and equipment thereof, and to that end desires and intends to issue its bonds in an amount necessary to accomplish said objects and purposes, and to secure the payment thereof by mortgage upon certain of its constituent lines of railroad hereinafter more particularly described.

And whereas, heretofore, to wit, on the 21st day of August, 1888, the board of directors of said Southern Pacific Railroad Company, at a meeting of said board, at which all the members thereof were present, by a resolution to that effect, which was unanimously adopted, passed, and concurred in, did determine and direct that bonds of said company be prepared, executed, and issued in its name and under its corporate seal, and signed by its president and secretary, to bear date the first day of October, 1888, in the sum of one thousand dollars each, to the number of thirty-eight thousand, numbered from one to thirty-eight thousand, inclusive, payable to the Central Trust Company of New York, or to the bearer thereof, fifty years after date, with interest at the rate of five per cent per annum, payable semiannually, on the first days of April and October of each year ensuing its date, payable both principal and interest in United States gold coin in the city of New York.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further order and direct that said bonds should be drawn in substantially the following form, to wit:

$1,000. United States of America. $1,000.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bond.

The Southern Pacific Railroad Company (of California) acknowledges itself indebted to the Central Trust Company of New York, or to the bearer hereof, in the sum of one thousand dollars gold coin of the United States, which sum it promises to pay to the bearer hereof, or, if registered, to the registered holder hereof, fifty years after date, and it further promises that on presentation and surrender at or after maturity of the respective interest coupons hereunto annexed, it will pay to the person presenting the same, or, if this bond is registered and the interest coupons appertaining thereto canceled, it will pay to the registered holder hereof, interest on such principal sum at the rate of five per cent per annum, semiannually, on or after the first day of April and October of each year ensuing the date hereof, both principal and interest payable at the office or agency of the company in the city of New York, in United States gold coin.

This is one of the first mortgage bonds issued under and secured by the indenture of mortgage or deed of trust from this company to the Central Trust Company of New York, trustee, dated the twenty-fifth day of August, 1888.

None of said bonds are to be in anywise binding or obligatory unless authenticated by a certificate endorsed

thereon, signed by said trustee or its successor or successors in said trust.

This bond may, at any time, upon production thereof to said railroad company, and proper endorsement being made thereon, and either with or without the surrender to said railroad company for cancellation of all unpaid interest coupons appertaining thereto, be registered upon the books of the company in the name of the holder thereof, and thereupon its transferability by delivery will cease, and thereafter it can be transferred only by the registered holder or his attorney by transfer duly made upon said books.

In witness whereof, the said Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and this bond to be signed by its president and secretary, this first day of October, one thousand eight hundred and eighty-eight.

SOUTHERN PACIFIC RAILROAD COMPANY,

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that to each of said bonds there should be attached one hundred interest coupons, numbered respectively from one to one hundred, inclusive, substantially in the following form, to-wit:

$25. (Coupon.) $25.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bond No. ——.

Interest coupon for twenty-five dollars, due ————, payable in the city of New York, in United States gold coin.

Coupon No. ——. ————,

Treasurer.

And that all such coupons should bear the impression of the engraved signature of the treasurer, which impression should be regarded and treated, in fact and in law, as equivalent to a manual signing by said officer.

And whereas, the said board of directors, at the meeting aforesaid, and in manner and form and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a mortgage upon certain of its constituent lines of railroad and telegraph and upon certain of its lands should be executed in its name and under its corporate seal, and be signed by its president and secretary, to the Central Trust Company of New York as trustee for the holders of said bonds; said mortgage to cover the railroad and telegraph line, rolling stock, stations, fixtures, and franchises held, owned, and possessed by it in the following constituent lines of railroad, all lying within the State of California:

First.—Running from Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—Running from Pajaro, in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Ap-

tos, in said Santa Cruz county, northerly and northeasterly, about five miles, being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—Running from a point at or near Castroville Station in Monterey county to a point at or near Monterey in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of the Carmel river—an estimated length of thirty-one and twelve-hundredths (31.12) miles.

Fourth.—Running from a point near San Miguel in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—Running from a point near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; running thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin division of the railroad of the party of the first part at or near Pampa, in the county of Kern, a distance of two hundred and sixty miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—Running from a point at or near Avon in Contra Costa county to a point on the Central Pacific Railroad at or near Pleasanton, in the county of Alameda, a distance of thirty-five (35) miles, more or less.

Seventh.—Running from a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare, to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with branches connecting with the Central Pacific Railroad to or near Modesto in Stanislaus county, a distance of sixteen (16) miles, more or less, to or near Merced, in Merced county, a distance of ten (10) miles, more or less, to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, with a branch to or near Tulare in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—Running from Berenda Station, in Fresno county, to a point at or near Perry's Ranch in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—Running from a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through the counties of Los Angeles and San Diego, to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—Running from a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—Running from a point at or near Long Beach, in Los Angeles county, to Whittier, thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part, between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—Running from a point at or near Long Beach Junction, in Los Angeles county, to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos, in said county—a distance of four (4) miles, more or less.

Thirteenth.—Running from a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands—all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—Running from a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—Running from the city of San Francisco, in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to Yuma, in the county of San Diego; and also from Los Angeles to Wilmington on San Pedro bay—aggregating nine hundred and eight miles of railroad and telegraph line, or thereabouts.

And also to cover the lands granted to the Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, above referred to, not sold or contracted to be sold or disposed of prior to the execution of this mortgage, or included in the right of way of the railroads and telegraph lines of the said company, or used or to be used for the construction or operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

And whereas, said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds by setting apart the sum of twenty thousand dollars of the net income derived by said company from the constituent lines of railroad herein mortgaged in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested, under the order and direction of said board

of directors, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as the board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids to be accepted, and bonds redeemed to the extent of the money in the sinking fund.

And whereas, the Southern Pacific Company, party of the second part herein, and lessee of certain portions of the railroads of the party of the first part affected by this mortgage, has been in writing notified and informed of this mortgage and has, in writing, by order of its board of directors, given its consent thereto, and as an evidence of such consent has become a party hereto:

Now, therefore, this indenture witnesseth, that the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the sum of one dollar to the said party of the first part in hand paid by the party of the third part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed, and confirmed and by these presents do grant, bargain, sell, release, enfeoff, convey, and confirm, unto the said party of the third part, as trustee, and to its successors and assigns forever, the following property, now and hereafter constructed, purchased, acquired, held in possession, and owned by said party of the first part, to wit:

Its constituent lines of railroad lying within the State of California, and running:

First.—From Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—From Pajaro in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Aptos, in said Santa Cruz county, northerly and northeasterly, about five (5) miles—being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—From a point at or near Castroville, in Monterey county, to a point at or near Monterey, in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of Carmel river—an estimated length of thirty-one and twelve hundredths (31.12) miles.

Fourth.—From a point near San Miguel, in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—From a point at or near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin Division of the railroad of the party of the first part, at or near Pampa, in the

county of Kern, a distance of two hundred and sixty (260) miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—From a point at or near Avon, in Contra Costa county, to a point on the Central Pacific Railroad, at or near Pleasanton, in the county of Alameda, a distance of thirty-five miles, more or less.

Seventh.—From a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with a branch connecting with the main line of the Central Pacific Railroad to or near Modesto, in Stanislaus county, a distance of sixteen (16) miles, more or less, a branch to or near Merced, in Merced county, a distance of ten (10) miles, more or less, a branch to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Tulare, in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—From Berenda Station, in Fresno county, to a point at or near Perry's ranch, in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—From a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through

the counties of Los Angeles and San Diego to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—From a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—From a point at or near Long Beach, in Los Angeles county, to Whittier; thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—From a point at or near Long Beach Junction in Los Angeles county to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos in said county—a distance of four (4) miles, more or less.

Thirteenth.—From a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands —all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—From a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—From the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to Yuma, in the county of San Diego; also from Los Angeles to Wilmington on San Pedro bay, aggregating nine hundred and eight (908) miles of railroad and telegraph line, or thereabouts.

Including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering places, sidetracks, turnouts, turntables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, equipments, fixtures, tools, telegraph lines, and all other property which may now or hereafter be acquired for the purpose of operating the constituent lines of railroad hereby mortgaged, including all of the said property which now is or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to that portion of the said lines of railroad hereby mortgaged, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the revision and reversions, remainder and remainders, rents, incomes, issues, and prof-

its thereof, with all the rights, titles, interest, estate, property, succession, claim, and demand, in law or equity, of the said party of the first part, of, in, and to the same, or any part or parcel thereof.

Also, all and singular the several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever, at law or in equity, of, in, or to the same, or any part or parcel thereof, which said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, own, or be or become entitled to, by force or virtue of the said acts of Congress, saving, excepting, and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction and operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

To have and to hold the above granted and described premises, property, and franchises, with the appurtenances, unto the said party of the third part, and to its successors duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies politic or corporate, who shall have become or be from time to time holders of the said first mortgage bonds secured hereby, or any of them.

Provided always, and these presents are upon the express condition, that if the said party of the first part, or its successors, shall well and truly pay or cause or pro-

cure to be paid unto the holders, from time to time, of said bonds and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner, set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and the property, estate, rights, franchises, and privileges herein and hereby granted and conveyed shall cease, determine, and be void.

Until default shall be made by the said party of the first part, its successors and assigns, in the payment of the principal or interest of the said bonds, or some of them or some part thereof as hereinafter provided, the said party of the first part, its successors and assigns, shall be suffered and permitted to possess and enjoy the said premises, with their appurtenances, and all and singular the rights and franchises hereinbefore described, and to receive, take, and use the tolls, income, earnings, and profits thereof, and the trustee or trustees hereunder shall have full power in its or their discretion, upon written request of the party of the first part, its successors or assigns, to convey by way of release or otherwise, and fully release from the lien of this mortgage, any lands or other property of any description (except only the lands granted by acts of Congress, as hereinbefore prescribed) which in its or their judgment shall not be necessary for or for use in connection with the said railroads, and to consent to such changes in the location of tracks, depots, and other buildings as in its or their judgment may be expedient, and to make and deliver the releases and conveyances necessary to carry the same into effect, but any

lands or other property which may be acquired for permanent use in substitution for any so released or conveyed shall thereupon become subject to the lien of this mortgage, and upon request of the trustee or trustees hereunder shall be conveyed to it or them by the party of the first part, its successors or assigns, upon the trusts of these presents.

But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid according to the terms of said bonds, then the said party of the third part, or its successor in said trust, by itself or its agents or servants in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds then outstanding, on which the interest or principal shall be and have so remained in default as aforesaid, enter into and upon and take possession of all, or in its or their discretion any part of, the said constituent lines of railroad hereby mortgaged, and work and operate the said constituent lines of railroad, and receive the income, receipts, and profits thereof and out of the same pay:

First, the expense of running and operating the same, including therein reasonable counsel fees and such reasonable compensation as it may allow to the several persons employed or engaged in the running and superintendence of the same.

Second, the expense of keeping the said roads, the appurtenances, the locomotives, and the rolling stock

thereof in good and sufficient repair to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof.

And third, pay, as far as the same will suffice, all interest and principal, if any, which may be due on said bonds, and in case of any deficiency apply the said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind.

Or the said party of the third part may, in case of default as aforesaid, and upon request as aforesaid, foreclose this mortgage, and sell and dispose of according to law, all of the constituent lines of railroad hereby mortgaged, together with all of the rights, property, privileges, franchises, real and personal, connected therewith or pertaining thereto, that are subject to this mortgage, with the appurtenances herein and hereby granted, or so much as may be necessary, and out of the money arising from such sale, pay:

First, the cost and charges and expenses of the foreclosure and sale.

Second, any expenses, costs and charges of the execution of the trust, previously incurred and remaining unpaid.

And third, distribute the residue of said proceeds among the holders of said bonds and coupons in proportion to their several interests until all have been paid in full, principal and accrued interest.

If any default shall be made in the payment of interest on any of said bonds for six months after demand at the

place of payment, when the same shall become due, then the said trustee may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and take possession of any of the lands above conveyed, and foreclose this mortgage thereon, and may sell at public auction upon like notice as hereinafter prescribed so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the cost, charges, and expenses of such entry, foreclosure, and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and thereupon or upon default in the payment of the principal of such bonds at their maturity, the said trustee may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage thereon, and sell at public auction all said lands, or so much thereof as may be necessary, first giving at least six months' previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles, and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges, and expenses of such last-mentioned entry, foreclosure, and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part.

In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute, and deliver a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any foreclosure proceedings shall be commenced, for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustee, and pay all the costs, charges, and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustee shall discontinue its proceedings thereon, and restore to said party of the first part all of such lands, to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms, and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced.

All lands granted or conveyed under the acts of Congress hereinbefore referred to and in anywise covered or affected by the provisions hereof shall be subject to the express provision that if, and so long as the bonds issued under and secured by the said indenture of mortgage to D. O. Mills and Lloyd Tevis, dated April 1, 1875, or any thereof shall remain outstanding, any and all sales made in the manner in said last-mentioned indenture of mortgage prescribed shall absolutely and forever release the

said lands from any and all lien or encumbrance of, under, or in respect of this mortgage or the bonds issued thereunder; and if and when all the bonds issued under said indenture of mortgage of April 1, 1875, shall have been fully satisfied and discharged and the lien of such last-mentioned indenture of mortgage upon such lands fully released, then the said lands, so far as they remain unsold at that time, shall be subject to the like provisions in respect to sale and conveyance, and release from the lien of this mortgage, as are in said mortgage of April 1, 1875, prescribed in respect to sale, and conveyance, and release from the lien thereof.

This indenture further witnesseth, that said party of the first part hereby agrees and covenants to and with said party of the third part that it will create a sinking fund for the redemption and payment of said bonds, by setting apart the sum of twenty thousand dollars of the net income derived by it from the constituent lines of railroad herein mortgaged, in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon goods securities, or otherwise invested under the order and direction of the board of directors of the party of the first part, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as said board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids

to be accepted and bonds redeemed to the extent of the money in the sinking fund.

And this indenture further witnesseth, that the said party of the first part hereby agrees and covenants to and with the said party of the third part, and its successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be legally imposed upon the property herein described and hereby mortgaged and every part thereof, and the said party of the third part, or its successors in said trust, or any one or more of the holders of said bonds, may, in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon prior to these presents, or to which this mortgage may be subject or subordinate, and, for all payments thus made, the parties so making the same shall be allowed interest thereon at the rate of six per cent per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money wherein they shall have been paid, and the same shall be payable by said party of the first part to said party of the third part, upon demand, in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

And this indenture further witnesseth, that the said party of the first part further covenants and agrees to

and with the said party of the third part, and its successors in said trust, that it will at any and all times hereafter, upon the request of the said party of the third part, execute, acknowledge, and deliver to the said party of the third part and its successors in said trust all and every such further necessary and reasonable conveyances and assurances of the said premises, or any part thereof, as may by the party of the third part or its successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance.

And the said party of the third part and its successors in said trust shall be entitled to receive a just and proper compensation for all services rendered by it or them in the discharge of said trust, and the same shall be deemed to be secured hereby. And it is hereby stipulated and agreed that the said party of the third part and its successors in said trust shall not be responsible for the acts or omissions of any agent or agents employed by it or them in any manner in and about the execution of the trust hereby created, when such agent or agents are selected with reasonable discretion, or with the approbation or with the knowledge and without the express disapprobation of said party of the first part.

This indenture further witnesseth, that should the said party of the third part for any reason fail, refuse, or become incompetent to discharge the duties or trusts herein conveyed to, imposed on, and accepted by it, then and in that event the board of directors of the party of the first part shall nominate and appoint a successor or successors to said party of the third part, which said suc-

cessor or successors shall be vested with the same properties, and clothed with the same powers, rights, and duties, and be subject to the same obligations, as the said party of the third part named herein, as fully as though he, they, or it had been named herein as such trustee or trustees.

And this indenture further witnesseth, that the party of the first part hereby agrees to take up, pay off, discharge, and retire the outstanding bonds of the Pajaro and Santa Cruz Railroad Company in the sum of five hundred and thirty thousand dollars ($530,000), the outstanding bonds of the Monterey Railroad Company in the sum of two hundred and twenty thousand dollars ($220,000), the outstanding bonds of the San Pablo and Tulare Railroad Company in the sum of one million and twenty-three thousand ($1,023,000) dollars, and the outstanding bonds of the Los Angeles and San Diego Railroad Company in the sum of five hundred and fifty-six thousand ($556,000) dollars, and to destroy, cancel, and retire all of said bonds unissued and in its hands, and cause said existing mortgages to be satisfied of record and canceled, and to take up said outstanding bonds with the new fifty-year five per cent bonds to be issued under this mortgage, upon such terms as may be agreed upon, said redemption and cancellation and satisfaction to be made without unnecessary delay.

It is further provided, covenanted, declared, and agreed that the party of the third part and its successors in the trust hereby created is and are from time to time to authenticate and certify as issued hereunder, and de-

liver to the party of the first part, its successors or assigns, first mortgage bonds in the form or substantially the form above prescribed, to amounts which shall aggregate, but shall not exceed, twenty-two thousand five hundred dollars par value of such bonds per mile for each mile of road constructed or acquired by the said party of the first part, its successors or assigns, and described in the foregoing thirteen subdivisions hereof, designated from "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, and for twenty-five miles in addition thereto, and to further amounts not exceeding seven thousand five hundred dollars per mile, additional thereto, for expenses and disbursements incurred in and about double tracking, masonry, iron bridges, rolling stock, or other betterments or improvements either to the permanent way, local or terminal facilities, or rolling stock. The said party of the third part, and its successors in the trust hereby created, is and are also from time to time to authenticate and certify as issued hereunder, and deliver to the party of the first part, its successors and assigns, additional first mortgage bonds in the form or substantially the form above prescribed, to the amounts to which bonds of the Southern Pacific Branch Railway Company issued or to be issued under and secured by the mortgage of November 24, 1886, hereinbefore referred to, shall have been deposited with the trustee hereunder.

All bonds so deposited with the trustee hereunder shall be held as collateral security for the bonds issued under this mortgage until all of the bonds issued under

and secured by such mortgage of the Southern Pacific Branch Railway Company shall have been so deposited, whereupon such deposited bonds shall be canceled and the mortgage securing the same shall be satisfied of record. While such Southern Pacific Branch Railway Company's bonds remain so on deposit with the trustee, neither such bonds nor the coupons appertaining thereto shall be required to be paid unless proceedings shall be taken for the foreclosure of the mortgage securing the same, in which case all the bonds and coupons which shall have been so deposited with the trustee shall be entitled to share for the benefit of the bonds issued under this mortgage, on equal terms with the other bonds issued under and secured by said Southern Pacific Branch Railway Company mortgage.

When said Southern Pacific Branch Railway Company mortgage shall have been satisfied of record, the party of the first part, its successors and assigns, shall be entitled from time to time to receive from the trustee hereunder, duly authenticated as issued under and secured by this mortgage, bonds in respect of the line described in the foregoing subdivision "Fourth" hereof, on the mileage basis of $22,500 and $7,500, as above prescribed, in respect of the lines described in subdivisions "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, due allowance being made on the basis of $30,000 per mile for the bonds theretofore issued against deposit of said Southern Pacific Branch Line bonds.

Authenticating certificates to such bonds are to be

signed, and deliveries thereof to be made, by the trustee under this mortgage from time to time upon presentation to it of certificates, in writing, executed by the president and chief engineer of the party of the first part, or its successors, reciting the facts authorizing delivery of such bonds hereunder, and without other evidence or proof of such facts; provided, however, that, notwithstanding anything herein contained, the party of the first part, or its successors, may at any time or from time to time, require the party of the third part or its successors to authenticate and certify hereunder and deliver to said party of the first part, its successors or assigns, and permit the sale of such amount or amounts of such bonds as the party of the first part or its successors may think fit; provided, that the proceeds of any such bonds issued in excess of the limits hereinabove prescribed shall be received by the trustee or trustees hereunder, and not by the party of the first part or its successors or appointees, and shall be disbursed by said trustee or trustees to the party of the first part or its successors or appointees, only pro rata as and when the party of the first part or its successors would have been entitled to receive such bonds under the foregoing provisions hereof; and provided, further that the total amount of bonds issued under or secured by this deed of trust is not in any event to exceed for all purposes herein mentioned the aggregate sum of thirty-eight million dollars.

In witness whereof, the said Southern Pacific Railroad Company, the party of the first part, has caused these

presents to be signed in its name by its president, and attested by its secretary, and sealed with its corporate seal.

SOUTHERN PACIFIC RAILROAD COMPANY,
By CHAS. F. CROCKER,
President.

Attest:
[Seal] J. L. WILLCUTT,
Secretary.

The Southern Pacific Company, party of the second part, the lessee of portions of the said Southern Pacific Railroad affected by the foregoing instrument, does hereby consent thereto, and hereby waives any and all objection it might or could have to the execution thereof, or to the issuance of the bonds therein provided for; provided that nothing in this consent or assent contained shall be construed as a grant of any of the property rights of said Southern Pacific Company, or of its franchises, to the mortgagee or trustee named herein.

In testimony whereof, said Southern Pacific Company has caused these presents to be signed in its name by its third vice-president and attested by its secretary, and its corporate seal to be hereunto affixed, this 25th day of August, 1888.

SOUTHERN PACIFIC COMPANY,
By CHAS. F. CROCKER,
Third Vice-President.

Attest:
[Seal] G. L. LANSING,
Secretary.

The Central Trust Company of New York, party of the third part to the foregoing mortgage or deed of trust, hereby accepts the trust created and declared in and by the foregoing instrument, and agrees to discharge the same pursuant to the provisions in that behalf therein contained.

In testimony whereof, said Central Trust Company of New York has caused these presents to be signed in its name by its second vice-president, and attested by its assistant secretary, and its corporate seal to be hereunto affixed, this seventh day of September, 1888.

CENTRAL TRUST COMPANY OF NEW YORK,

By E. FRANCIS HYDE,
Second Vice-President.

Attest:

[Seal] B. G. MITCHELL,
Secretary.

State of California,
City and County of San Francisco. } ss.

I, J. F. Kingwell, a notary public in and for the city and county of San Francisco, State of California, residing in said city and county, duly commissioned and sworn, do certify that on the 25th day of August, A. D. 1888, personally appeared before me, in said city and county, Charles F. Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individ-

uals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally then and there acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being duly sworn, did depose and say: That he resides in the city of Oakland, county of Alameda, and State of California; that he is and was the secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of execution of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and was by him so affixed by order of the board of directors of said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was acquainted with Charles F. Crocker, and knows that said Charles F. Crocker is and was president of the Southern Pacific Railroad Company at the date and execution of said instrument; that the signature of the said Charles F. Crocker subscribed to said instrument is in the genuine handwriting of the said Charles F. Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] J. F. KINGWELL,

Notary Public in and for the City and County of San Francisco, California.

State of California,
City and County of San Francisco. } ss.

On this twenty-fifth (25) day of August, in the year one thousand eight hundred and eighty-eight (1888), before me, J. F. Kingwell, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Chas. F. Crocker, known to me to be the 3rd vice-president of the Southern Pacific Railroad Company, and G. L. Lansing, known to me to be the secretary of the Southern Pacific Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 25th day of August, A. D. 1888.

[Seal] J. F. KINGWELL,

Notary Public in and for the City and County of San Francisco, State of California.

State of New York,
City and County of New York. } ss.

On this 7th day of September, in the year 1888, before me, Charles Edgar Mills, a commissioner of the State of California, in and for the State of New York, residing in said city of New York, personally appeared E. Francis Hyde and Benjamin G. Mitchell, known to me to be the second vice-president and assistant secretary of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this 7th day of September, A. D. 1888.

[Seal] CHARLES EDGAR MILLS,
Commissioner for California in New York, 115 and 117 Broadway, N. Y. City.

[Endorsed]: Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Deed of trust. Dated August 25, 1888.

Recorded at the request of H. D. La Motte, Oct. 2nd, A. D. 1888, at 30 minutes past 4 P. M., in liber No. 21 of Mortgages, page 10, Records of San Mateo Co., Cal.

E. EIKERENKOTTER,
Recorder.
By Claude Fox,
Deputy Recorder.

Recorded at request of H. D. La Motte, in Book 84 of Mortgages, page 319 et seq., Oct. 3d, 1888, at 14 min. past 9 o'clock A. M., Records of Santa Clara Co., Cal.

Pd. $19.

CHAS. P. OWEN,
County Recorder.

Filed for record at the request of H. D. La Motte, Oct. 3, A. D. 1888, at 1 o'clock P. M., and recorded in Vol. 1 of Trust Deeds, page 123, San Benito County Records.

Pd. $19.

R. SHAW,
Recorder.
By Robt. Shaw,
Deputy Recorder.

Filed for record at the request of H. D. La Motte, Oct. 4, A. D. 1888, at 9 o'clock A. M., and recorded in Vol. 54 of Mortgages, page 83, Oct. 4, 1888, Santa Cruz County Records.

Paid, $19.

ED. MARTIN,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 4th, 1888, at —— minutes past 2 P. M., in Record A of Trust Deeds, page 409, Monterey County, Cal.

Recorder's fees, $19.

DAVID WALLACE,
County Recorder.

Recorded at request of H. D. La Motte, Oct. 6, 1888, at 30 minutes past 8 o'clock A. M., in Book "P" of Mortgages, at page 513 et seq., San Luis Obispo County Records.

$18.50.

[Seal] F. E. DARKE,
Recorder.
By F. E. Darke, Jr.,
Deputy.

Recorded at request of H. D. La Motte, at 25 min. past 10 A. M., Oct. 8, 1888, in Book W of Mortgages, page No. 1, Records of Santa Barbara County, Cal.

Pd. $18.50.

C. A. STUART,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 9th, A. D. 1888, at 8 min. past 9 o'clock A. M., in Book 11 of Mortgages, page 56, Records of Ventura Co., Cal.

$16.75, pd.

L. F. EASTIN,
County Recorder.
By Fred. Hund,
Deputy Recorder.

Recorded at request of H. D. La Motte, Oct. 10, 1888, at 48 min. past 8 A. M., in Book 179, page 74 of Mortgages, Los Angeles County Records.

Fees, $12.90.

FRANK A. GIBSON,
County Recorder.
By Arthur Bray,
Deputy.

Recorded at request of H. D. La Motte, Oct. 11, 1888, at 8 min. past 8 A. M., in Book 11 of Mortgages, page 129, Records San Bernardino County.

$18.50, paid.

LEGARE ALLEN,
County Recorder.
By Gordon G. Ives,
Deputy Recorder.

Received for record Oct. 12, 1888, at 9 o'clock A. M., at request of H. D. La Motte, and recorded in Book No. 43 of Mortgages, page 1 et seq., San Diego Co., Cal.

Fees.....$23.50, pd.
Comparing. 3

26.50, pd.

E. G. HAIGHT,
County Recorder.
By B. F. Moore,
Deputy.

Recorded at request of H. D. La Motte, Oct. 13th, 1888, at 25 min. past 9 o'clock A. M., in Book 8 of Mortgages, page 376, Records of Kern County.

Fees, $20.00, paid.

N. R. PACKARD,
County Recorder.
By F. A. Shedd,
Deputy.

Recorded at request of H. D. La Motte, at 43 min. past 7 A. M., October 15th, 1888, in Vol. 4 of Trust Deeds, page 446 et seq., Records of Tulare County, Cal.

Fees, $20.00, pd.

W. F. THOMAS,
County Recorder.

Recorded at request of H. D. La Motte, at 45 min. past 1 P. M., Oct. 15th, 1888, in Vol. 86 of Deeds of Fresno County Records, pp. 195 et seq.

$20.

C. L. WAINWRIGHT,
Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 40 min. past 8 A. M., in Book "P" of Mortgages, page 106, Records of Merced County.

$20.00, paid.

J. G. ELLIOTT,
County Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 25 min. past 1 P. M., in Liber 35, Deeds of Trust, page 65, Records of Stanislaus County.

Fee, $10.50.

C. S. ABBOTT,
County Recorder.
By E. E. Howard,
Deputy.

Recorded at the request of H. D. La Motte, October 17th, 1888, at 40 minutes past 12 o'clock M., in Book "N" of Mortgages, page ——, Calaveras County Records.

$20.00.

A. L. WYLLIE,
Recorder,
By Edw. Casey,
Deputy.

Recorded at request of H. D. La Motte, October 18th, 1888, at 35 min. past 10 o'clock A. M., in Book "A," Vol. 64, page 458 of Deeds, San Joaquin County Records.

$20.00, paid.

[Seal]

J. F. MOSELEY,
County Recorder.
By G. E. Housken,
Deputy.

Recorded at request of H. D. La Motte, October 18th, A. D. 1888, at 30 min. past 4 P. M., in Vol. 54 of Deeds, page 267, Records of Contra Costa County.

$17.50, pd.

C. S. COUSINS,
County Recorder.
By A. E. Dunkel,
Deputy Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 24, 1888, at 45 min. past 9 o'clock A. M., in Liber 1320 of Deeds, page 85.

A. T. SPOTTS,
County Recorder.
By C. H. McCourtney,
Deputy.

Recorded Oct. 26th, 1888, at 46 min. past 3 P. M., in Liber 302 of Mortgages, page 1, Records of Alameda County.

F. D. HINDS,
County Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 27th, 1888, at 25 min. past 10 o'clock A. M., in Liber 890 of Mtgs., page 283.

A. T. SPOTTS,
County Recorder.

[Endorsed]: Deed of Trust. Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Dated August 25, 1888. Filed Jan. 22, 1895. Wm. M. Van Dyke, Clerk.

In the United States Circuit Court, Southern District of California, Ninth Circuit.

UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY,
Defendant.

Bill of Complaint in Cause No. 662.

To the Judges of the Circuit Court of the United States, for the Southern District of California.

The United States, by the attorney general thereof, bring this their bill of complaint against the Southern Pacific Railroad Company, a corporation, created by, organized under, and existing by virtue of the laws of the State of California, and a resident of said State, with its principal offices located in the city of San Francisco, California.

I.

And thereupon your orators allege and show unto the Court that since the year 1846 the United States have been, and still are, the absolute owners by title in fee simple, and in possession of, that certain tract of land, to wit, the northwest quarter of section 17, in township 7 south, range 3 east, San Bernardino base and meridian, within this judicial district.

II.

Your orators further allege upon information and belief that the defendant corporation claims to own said tract of land under and by virtue of an act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes." (16 U. S. Stats. 573-9.)

III.

And your orators allege that said Southern Pacific Railroad Company claims and pretends that it has complied with all the terms and conditions of said act, and especially with the terms and conditions of section 23 of said act, and claims that said land was granted to it by said act; but your orators allege, upon their information and belief, that each and all of said claims and pretenses are unfounded.

IV.

And your orators allege that said tract of land is not within the primary or granted limits of any grant ever made by Congress to said railroad company; but your orators allege that said railroad company claims and pretends that said land is situated within the indemnity limits of a grant made to said railroad company by said act of Congress of March 3, 1871, but which claim is unfounded. And said defendant claims and pretends that on or about the third day of October, 1887, said railroad company selected said land as indemnity land inuring to it under said act of Congress of March 3, 1871, and that the secretary of

the interior of the United States approved said selection and certified said land to said railroad company.

V.

Your orators allege that on or about the third day of October, 1887, the secretary of the interior of the United States inadvertently and without any authority of law did certify said land to said railroad company as indemnity land, under said act of Congress of 1871.

VI.

Your orators allege that in July, 1887, one Joseph Crawford, then a citizen of the United States, settled upon said land, claiming the same as a homestead under the homestead laws of the United States, it then being public land, and said Crawford then being qualified to enter said land as a homestead; and thereafter and before said Crawford was required by the laws of the United States to enter said land at the United States landoffice, said defendant railroad company selected, or pretended to select, said land as indemnity as aforesaid, and thereby prevented said Crawford from entering said land and obtaining the legal title thereto under the homestead laws of the United States, of which selection and approval thereof said Crawford had no notice or knowledge.

VII.

And your orators allege that from the date of his settlement upon said land in July, 1887, as aforesaid, down to the present time, said Crawford has continued to occupy and reside upon and cultivate said land, claiming the

same as a homestead, complying with all the requirements of the homestead laws of the United States, and prior to the time of the commencement of this suit he attempted to enter said land at the United States landoffice at Los Angeles, California, and tendered the fees for such entry, but his said entry was rejected, for that said land had been illegally, erroneously, and inadvertently certified to defendant railroad company.

VIII.

Your orators further allege that on the —— day of ——, 1890, upon an order issued by the secretary of the interior, and upon due notice to the defendant railroad company, said Crawford contested the right of said railroad company to select said land as indemnity before the commissioner of the general landoffice, and a decision was rendered therein by said commissioner, on or about the —— day of ——, 1890, holding that said land was not subject to selection by said railroad company as indemnity, for that on the third day of October, 1887, said land was settled upon and occupied by said Crawford, as a homestead, and thereafter, upon appeal to the secretary of the interior by defendant railroad company, the decision of the commissioner of the general landoffice was affirmed by said secretary.

IX.

Your orators allege that said tract of land has never been granted to defendant railroad company by any act of Congress, either as land within primary or place limits or as indemnity land.

X.

Your orators allege that more than ninety days prior to the commencement of this suit, the secretary of the interior demanded in writing from the defendant railroad company that said company should reconvey and relinquish to the United States the above-described tract of land, which said demand was refused and not complied with by defendant railroad company.

Your orators further allege that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum and value of $2,000.

Wherefore, your orators, having no plain, speedy, or adequate remedy at law, pray that their title to said land may be quieted, and that defendant be forever enjoined and restrained from having or claiming any right, title, or interest therein.

And your orators further pray that said pretended certification of said loan to defendant railroad company be vacated and annulled and decreed to be void.

And your orators pray for such other and further relief as may to the Court seem equitable, and for costs of suit.

And your orators further pray that if it shall be found that the defendant railroad company has sold and conveyed said lands to any person in good faith, and for value, without notice or knowledge of the rights and claims of your orators to said land, then your orators pray that an accounting may be had to determine the value of said land, and that your orators have judgment against defendant railroad company for the value of such land.

Your orators further pray that the writ of subpoena be issued out of and under the seal of this Honorable Court, directed to the Southern Pacific Railroad Company, commanding said defendant upon a certain day, and under a certain penalty therein, to be inserted, to be and to appear before this Honorable Court, and then and there to answer the premises, and to stand to and abide such further order and decree therein as shall be agreeable to equity and to good conscience. And your orators will ever pray.

Your orators expressly waive answer under oath by the defendant.

JUDSON HARMON,
Attorney General.

JOSEPH H. CALL,
Special Asst. U. S. Atty.

GEORGE J. DENIS,
U. S. Attorney.

[Endorsed]: 662. In the United States Circuit Court, Southern District of California, Ninth Circuit. United States v. Southern Pacific Railroad Company. Complaint. Filed Oct. 11, 1895. Wm. M. Van Dyke, Clerk. Jos. H. Call, Attorney for Plaintiffs.

UNITED STATES OF AMERICA.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

Subpoena.

The President of the United States of America, Greeting, to the Southern Pacific Railroad Company:

You are hereby commanded that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom, in Los Angeles, on the fourth day of November, A. D. 1895, to answer a bill of complaint exhibited against you in said court by the United States of America, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under the penalty of five thousand dollars.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the United States, this 11th day of October, in the year of our Lord one thousand eight hundred and ninety-five, and of our independence the one hundred and twentieth.

[Seal] WM. M. VAN DYKE,
Clerk.

Memorandum Pursuant to Rule 12, Supreme Court, U. S.

You are hereby required to enter your appearance in the

above suit, on or before the first Monday of November next, at the clerk's office of said Court, pursuant to said bill; otherwise the said bill will be taken pro confesso.

WM. M. VAN DYKE,
Clerk.

United States Marshal's Office,
Southern District of California.

I hereby certify that I received the within writ on the 11th day of October, 1895, and, after due and diligent search and inquiry, I am unable to find the president, secretary, managing agent, or other general officer of the Southern Pacific Railroad Company, the corporation defendant named within, within the Southern District of California, upon whom to serve this subpoena in equity. I therefore return the same not served.

Los Angeles, October 12th, 1895.

N. A. COVARRUBIAS,
U. S. Marshal.
By H. T. Christian,
Deputy.

[Endorsed]: No. 662. U. S. Circuit Court, Ninth Circuit, Southern District of California. In Equity. United States of America vs. The Southern Pacific Railroad Company. Subpoena. Return not found. Filed Oct. 12, 1895. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, for the Southern District of California.

IN EQUITY.

UNITED STATES OF AMERICA, Plaintiffs,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY, Defendant.
No. 662.

Answer.

The answer of the Southern Pacific Railroad Company, defendant, to the bill of complaint of the United States of America, plaintiffs.

This defendant, now and at all times hereafter saving to itself all and all manner and benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections in the said bill of complaint contained, for answer thereto, or to so much thereof as this defendant is advised it is material or necessary for it to make answer to, answering says:

First.—It is true, as alleged in the bill of complaint, that it is a corporation; that the land described in the bill of complaint is situated within the Southern District of California; and that the matter in dispute in this suit ex-

ceeds, exclusive of interest and costs, the sum or value of two thousand dollars.

Second.—It is true that in the year 1846 the plaintiffs became the absolute owners of the land in suit by title in fee simple; but on March 3, 1871, the Congress of the United States made a grant of lands to this defendant, and the land in suit is a portion of the lands within the indemnity limits of that grant—the full particulars of which grant will be shown in this answer. The defendant denies that the plaintiffs are, or have been at any time since March 3, 1871, the absolute owners of the said land by title in fee; or that they are now, or have been at any time since October 3, 1887, the owners of the said land at all, or of any title, right, or interest whatsoever in the same.

Third.—It is true, as alleged in the bill of complaint, that the defendant claims to own the land in suit under and in virtue of the provisions of the act of Congress therein mentioned; and that the defendant claims to have complied with all the terms and conditions of that act, including section 23 thereof; and that the defendant claims that the said land is situated within the indemnity limits of, and was granted to it, by the said act; and that the defendant claims to have selected the land on October 3, 1887, as indemnity land inured to it under the said act. It is not true, as alleged in the bill of complaint, that the land in suit is not within the primary or indemnity limits of any grant ever made by Congress to the defendant, nor that the said claims of the defendant are pretenses and unfounded; but the defendant says that the land in suit

is within the indemnity limits of its said grant from Congress, and each of said claims is, and all of them are, true and founded in fact.

Fourth.—It is also true that the secretary of the interior certified the land in suit to this defendant as indemnity land under the provisions of the said act; and in this behalf the defendant says: On October 3, 1887, the defendant selected the land in suit as indemnity land of its said grant, and on that day the register and receiver of the landoffice of the United States at Los Angeles approved the selection, and certified their approval thereof; and such selection, approval, and certificate was each made under the direction of the secretary of the interior. On September 30, 1892, the secretary of the interior approved clear list No. 30, prepared by the commissioner of the general landoffice, in which a large quantity of land, including this in suit, was described for patenting to the defendant as indemnity land granted to it by the said act; and on November 5, 1892, a patent duly issued, conveying all the land described in the said clear list to this defendant. But the defendant says it is not true, and denies that the register and receiver, or either of them, the commissioner of the general land office or the secretary of the interior, acted inadvertently or without authority in law, either in directing, approving, or certifying the defendant's said selection, or in preparing or approving the said clear list, or in issuing the said patent; and in this behalf the defendant says that each and all, the register and receiver, commissioner of the general landoffice, and secretary of the interior, acted advisedly and with full

lawful authority, in directing, approving, and in certifying the defendant's said selection, and in preparing and certifying the said clear list and in issuing the said patent.

Fifth.—The defendant is not informed about the matters and things alleged in paragraph VI and VII of the bill of complaint, but for the purposes of this suit admits that all such matters and things are true as there alleged, excepting that the defendant denies that the alleged homestead entry sought to be made by Crawford was rejected because the land had been illegally, erroneously, or inadvertently certified to this defendant, but for the purposes of this suit admits that Crawford's homestead entry was rejected because the land had been theretofore duly selected by the defendant as lands of its indemnity grant. And the defendant says that at all the times mentioned in paragraphs VI and VII of the bill of complaint the land in suit was reserved and excluded by the provisions of the said act of March 3, 1871, from homestead settlement and entry.

Sixth.—The defendant admits the allegations to be true as made in paragraph VIII of the bill of complaint, except as follows: The defendant denies that Crawford contested the right of the defendant to select this land; admits that in 1892 he initiated a contest with the defendant against its selection theretofore made and approved, but denies that such contest was upon an order issued by the secretary of the interior; and denies that the decision alleged to have been made by the commissioner of the general landoffice in the year 1890 was at any time prior to August 12, 1892; and denies that the secretary of the

interior made any order permitting Crawford to contest the defendant's selection, or that he made the decision alleged, prior to August 18, 1894.

Further answering the defendant says that the following are the true facts in respect of the title to the lands in suit:

I.

On December 2, 1865, the defendant was duly incorporated as the Southern Pacific Railroad Company, under and in virtue of the general laws of the State of California, for the purpose of constructing, owning, maintaining, and operating a railroad from San Francisco, through the counties of Santa Clara, Monterey, San Luis Obispo, Tulare, Kern, Los Angeles, and San Diego, to the town of San Diego; thence eastward to the eastern boundary of California.

On March 1, 1870, the legislature of the State of California passed an act entitled "An act relating to certificates of incorporation," which was approved on that day, and is in the following words and figures:

"Section 1. Any corporation now or hereafter organized under the laws of this State may amend its articles of association or certificate of incorporation by a majority vote of the board of directors or trustees, and by a vote or written assent of the stockholders representing at least two-thirds of the capital stock of such corporation; and a copy of the said articles of association or certificate of incorporation, as thus amended, duly certified to be correct by the president and secretary of the board of directors or trustees of such corporation, shall be filed in

the same office or offices where the original articles or certificate are required by law to be filed; and from the time of filing such copy of the amended articles or certificate such corporation shall have the same powers, and it and the stockholders thereof shall be thereafter subject to the same liabilities, as if such amendment had been embraced in the original articles or certificate; provided, that the time of the existence of such corporation shall not be thereby extended beyond the time fixed in the original articles or certificate; and further provided, that such original and amended articles or certificate shall together contain all the matters and things required by the law under which the original articles of association or certificate of incorporation were executed and filed; and provided further, that nothing herein contained shall be construed to cure or amend any defect existing in any original certificate of incorporation heretofore filed, by reason of the failure of such certificate to set forth the matters required by law to make the same valid as a certificate of incorporation at the time of the filing thereof; also provided, that unless the vote or written assent of all the stockholders has been obtained, then a notice of the intention to make such amendment shall first be advertised for sixty days in some newspaper published in the town or county in which the principal place of business of said company is located; and the written protest of any one of said stockholders or his duly authorized agent or attorney, whose assent has not been obtained, filed with the secretary of the said company, shall, unless withdrawn, be effectual to prevent the adoption of such

amendment; provided, that nothing in this act shall be construed to authorize any corporation to diminish its capital stock.

"Section 2. This act shall take effect and be in force from and after its passage."

On April 4, 1870, the legislature of the State of California passed an act, which was approved on that day and is in the following words and figures:

"Section 1. Whereas, by the provisions of a certain act of Congress of the United States of America, entitled 'An act granting lands to aid in the construction of a railroad and telegraph line from San Francisco to the eastern line of the State of California,' approved July 27, 1866, certain grants were made to, and certain rights, privileges, powers and authority were vested in and conferred upon the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the State of California; therefore, to enable the said company to more fully and completely comply with and perform the requirements, provisions, and conditions of the said act of Congress, and all other acts of Congress now in force or which may hereafter be enacted, the State of California hereby consents to said act; and the said company, its successors and assigns, are hereby authorized and empowered to change the line of its railroad so as to reach the eastern boundary line of the State of California by such route as the company shall determine to be the most practicable, and to file new and amendatory articles of association, and the right, power, and privilege is hereby granted to, conferred upon, and vested in them to con-

struct, maintain, and operate, by steam or other power, the said railroad and telegraph line mentioned in said acts of Congress, hereby confirming to and vesting in the said company, its successors and assigns, all the rights, privileges, and franchises, power and authority conferred upon, granted to or vested in said company by the said acts of Congress, and any act of Congress which may be hereafter enacted.

"Section 2. This act shall take effect and be enforced from and after its passage."

II.

By section 23 of an act of the Congress of the United States, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railway Company, and to aid in the construction of its road, and for other purposes," this defendant was authorized and empowered to construct a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to it by the act of the Congress of the United States, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the State of Missouri and Arkansas to the Pacific Coast," approved July 27, 1866.

There was thereby and in that manner granted to the defendant every alternate section of public land, not mineral, designated by odd numbers, to the amount of ten alternate sections of land per mile on each side of said

railroad, whenever on the line thereof the United States had full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights at the time the line of said road should be designated by a plat thereof filed in the office of the commissioner of the general land office.

And in this behalf the said act of March 3, 1871, in the manner aforesaid, provided that whenever prior to said time any of the said sections were granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands should be selected by this defendant in lieu thereof, under the direction of the secretary of the interior, in alternate sections and designated by odd numbers, not more than ten miles beyond the limits of the first-mentioned alternate sections.

And the said act, in the manner aforesaid, further provided that the President of the United States should cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road after the general route should be fixed, and as fast as might be required by the construction of said railroad; and that the odd sections of land thereby granted should not be liable to sale or entry or pre-emption before or after they were surveyed, except by this defendant, as provided in said act.

For greater certainty the defendant begs leave to refer to the said act of March 3, 1871, as printed in the 16 United States Statutes at Large, page 573, and following, and to the said act of July 27, 1866, as printed in the 14

United States Statutes at Large, page 292, and following, and makes each of the said acts a part of his answer.

III.

On or before April 3, 1871, the defendant duly fixed the general route of the entire line of railroad which it was authorized by the said act of March 3, 1871, to construct, and on April 3, 1871, the line of said road was designated on a plat thereof filed by the defendant in the office of the commissioner of the general land office. The said general route, plat, and designation of line were duly approved and accepted by the commissioner of the general landoffice and the secretary of the interior; and on April 21, 1871, the commissioner of the general landoffice, by direction of the secretary of the interior dated April 9, 1871, withdrew the odd-numbered sections of land within thirty miles of the railroad line shown upon the said plat from sale or location, pre-emption, or homestead entry. A copy of the said order is hereto attached, marked Exhibit "A," and made a part of this answer.

The said order of withdrawal has ever since continued in full force and effect, except in so far as, if at all, the same may have been affected by an order of the secretary of the interior dated August 15, 1887, directing the restoration of all lands so withdrawn, situated within the indemnity limits.

The defendant has been informed and believes that the said order of August 15, 1887, did not in any wise affect the provisions of the sixth section of the act of July 27, 1866, made a part of the act of March 3, 1871, in the man-

ner aforesaid; and that the said order did not, and could not, make any of the said withdrawn lands liable to sale, entry, or pre-emption, except by this defendant.

IV.

On April 15, 1871, in pursuance of and conformity with the provisions of the acts of the legislature of the State of California, approved March 1, 1870, and April 4, 1870, hereinbefore set forth, this defendant amended and altered its articles of incorporation and association so as to include in its line of railroad the route from Tehachapi Pass, by way of Los Angeles, to the Colorado river, designated in the said act of Congress of March 3, 1871; and on that day filed such amended articles of association in the same office where the originals were required by law to be filed. For greater certainty a copy of the said amended articles of association are attached as Exhibit "B," and made part of this answer.

This defendant, and all its stockholders, complied with and fully performed each and every requirement of the said acts of the legislature.

V.

On May 16, 1871, the defendant duly accepted the terms, conditions, and impositions of the said act of Congress of March 3, 1871, and thereafter constructed and fully equipped the entire railroad provided for in said act, in five several sections, along the route designated upon the plat filed April 3, 1871; and after the completion of the construction and equipment of the said sections, re-

spectively, commissioners were duly appointed by the President of the United States to examine the same; and such commissioners duly examined each of the said sections and duly reported to the President of the United States that each thereof had been completed in a good, substantial, and workmanlike manner, and in all respects as required by the said act; and each of the said reports were accepted and approved by the secretary of the interior and the President of the United States.

That the commissioner's said reports were so made on the following dates: For the first section of fifty miles of the said railroad, extending from San Fernando to Spadra, on April 15, 1874; for the second section of fifty miles, extending from Spadra to San Gorgonio, on October 21, 1875; for the third section of fifty miles thereof, extending from San Gorgonio to Indio, on June 22, 1876; for the fourth section of seventy-eight 59-100ths miles thereof, extending from San Fernando to Mojave, on February 17, 1877; and for the fifth section of one hundred and eighteen and 37-100ths miles thereof, extending from Indio to Yuma, on December 6, 1877.

That the commissioners' said reports were accepted and approved by the President of the United States on the following dates: Upon the said first section of the railroad, on May 9, 1874; upon the said second section of the railroad, on November 11, 1875; upon the said third section of the railroad, on July 21, 1876; upon the said fourth section of the railroad, on March 2, 1877; and upon the said fifth section of the railroad, on January 23, 1878.

VI.

That your orator filed with the secretary of the interior maps of said railroad as the same had been definitely located and the construction thereof completed on the following dates: For the said first section thereof, on April 15, 1874; for the said second section thereof, on October 21, 1875, for the said third section thereof, on June 22, 1876; for the said fourth section thereof, on February 17, 1877; and for the said fifth section thereof, on December 6, 1877.

That the said maps were duly approved by the secretary of the interior on the following dates: Of the said first section of the railroad, on May 11, 1874; of the said second section thereof, on November 15, 1875; of the said third section thereof, on July 24, 1876; of the said fourth section thereof, on March 6, 1877; and of the said fifth section thereof, on January 31, 1878.

VII.

Section 3, in township 1 south, range 11 west, San Bernardino base and meridian, is an odd-numbered section of land, within twenty miles, on the north side of the first constructed section of the said railroad, extending from San Fernando to Spadra, and it was granted as a part of the Mexican Ranchos Santa Anita and San Francisquito, prior to the time when the line of the defendant's railroad was designated by a plat thereof filed in the office of the commissioner of the general landoffice.

VIII.

The land described in the bill of complaint herein is a part of section 17, in township 7 south, range 3 east, San Bernardino base and meridian, and is distant more than twenty miles from, but situated within thirty miles of, this defendant's said railroad, and is opposite to and coterminous with the third constructed section of the said railroad, extending from San Gorgonio to Indio.

At the time of the passage of the said act of Congress of March 3, 1871, the land described in the bill of complaint was vacant and unappropriated public land of the United States, not mineral, to which the United States had full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emptions or other claims or rights; and the said lands have ever since so remained, excepting only as they have been affected by laws of Congress and the acts of the parties in this answer mentioned and referred to.

The land described in the bill of complaint is situated within the United States district of land subject of sale and proceedings at Los Angeles, in the State of California.

IX.

On October 3, 1887, the defendant filed its indemnity list No. 25, in the landoffice of the United States at Los Angeles, describing all of section 17, in township 7 south, range 3 east, San Bernardino base and meridian, as selected by it in lieu of the said section 3, in township 1 south, range 11 west.

The said list was in the form and accompanied by the certificates, affidavits, and fees required by law and the regulations prescribed by the secretary of the interior and the commissioner of the general landoffice; and the register and receiver of the Los Angeles landoffice, in pursuance of the provisions and directions of the said rules and regulations, duly approved the said list on October 3, 1887. And so, on the said date, this defendant duly selected the land described in the bill of complaint, under the direction of the secretary of the interior, in virtue of the rights, aforesaid, granted to it by the said act of March 3, 1871; and thereafter such proceedings were regularly and properly had in the said landoffice at Los Angeles, in the general landoffice, and in the office of the secretary of the interior, as that on November 5, 1892, a patent, duly and properly issued, bearing that date, conveying a title in fee in and for the land described in the bill of complaint, from the United States to this defendant—and this defendant still is the owner of the said land, by title in fee simple.

On October 3, 1887, the defendant had not, nor has it since, selected or received lands to the extent or amount earned and acquired by it under and in virtue of the said act of Congress, and had not then, nor has it since, selected land in lieu of the said section 3, in township 1 south, range 11 west, other than the said section 17, in township 7 south, range 3 east.

Wherefore, this defendant, having fully answered to the said bill of complaint, in so far as it is advised the same is material and necessary to be answered, denies

that the plaintiffs are entitled to the relief or any part thereof in the bill of complaint demanded, or to any relief whatsoever; and prays the same advantage of this answer as if it had pleaded and demurred to the bill of complaint; and to be hence dismissed with its reasonable charges in this behalf most wrongfully sustained.

WM. SINGER, Jr.,
Attorney for the Defendant.

WM. F. HERRIN,
Counsel for the Defendant.

Exhibit "A."

(Attached to Answer.)

Department of the Interior,
General Landoffice,
April 21, 1871.

Register and Receiver, Los Angeles, Cal.

Gentlemen: By act of March 3, 1871, section 23, the Southern Pacific Railroad Co. was authorized to construct a railroad from a point at or near Tehachapi Pass, by the way of Los Angeles to the Texas Pacific Railroad, at or near the Colorado river, with the same grant of lands, etc., as were granted to the said company by act of July 27, 1866.

The company having filed a diagram designating the general route of said road, I herewith transmit a map showing thereon the line of route, as also the 20 and 30-mile limits of the grant to the line of withdrawal for the Southern Pacific road under the Act of 1866, and you are hereby directed to withhold from sale or location, pre-

emption or homestead entry all the odd-numbered sections falling within those limits.

The even-numbered sections within the limit of twenty miles you will increase in price to $2.50 per acre, and will dispose of them at that price, but only under the pre-emption and homestead laws.

When pre-emption or homestead entry may have had legal inception prior to the receipt of this order, the settlers may of course prove their claims either upon odd or even-numbered sections at the rate of $1.25 per acre.

This order will take effect from the date of its receipt by you, and you will please acknowledge receipt.

The even-numbered sections between the 20 and 30 mile or indemnity limits are not affected by this order.

Very respectfully,

WILLIS DRUMMOND,

Commissioner.

Exhibit "B."

(Attached to Answer.)

Whereas, by an act of the legislature of the State of California, entitled "An act relating to certificates of incorporation," approved March 1, 1870, any corporation then organized, or thereafter to be organized, under the laws of the State of California, is authorized and empowered to amend its articles of association, or certificate of incorporation, by a majority vote of the board of directors or trustees, and by a vote or written assent of the stockholders representing, at least, two-thirds of the capital stock of such corporation;

And whereas, by a certain other act of the legislature of the State of California, entitled "An act to aid in giving effect to an act of Congress, relating to the Southern Pacific Railroad Company," approved April the 4th, 1870, to enable the said company to more fully and completely comply with and perform the provisions, requirements and conditions of an act of Congress of the United States of America, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from San Francisco to the eastern line of the State of California," approved July 27, 1866, and of all other acts of Congress then in force, or which might thereafter be enacted, the said Southern Pacific Railroad Company, its successors and assigns, were authorized and empowered to change the line of its railroad so as to reach the eastern boundary line of the State of California, by such route as said company might determine to be most practicable, and to file new and amendatory articles of association;

And whereas, by an act of Congress of the United States of America, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March the 3rd, 1871, the said Southern Pacific Railroad Company was authorized, subject to the laws of California, to construct a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same grants, rights, and privileges and subject to the same limitations, restrictions and conditions as were granted to said Southern Pacific Railroad Company by an

act of Congress, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the State of Missouri and Arkansas to the Pacific Coast," approved July 27, 1866;

And whereas, said Southern Pacific Railroad Company desires to secure to itself the grants, rights, and privileges conferred upon it by said acts of Congress of the United States, and to that end to amend and alter its articles of association, as provided in the foregoing acts of the legislature of the State of California, so as to include in its line of railroad and telegraph the line or route designated in the aforesaid act of Congress of March 3, 1871, to wit, the line from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river;

And whereas, on the eleventh day of April, 1871, at a meeting of the board of directors of said company, held at San Francisco, the principal place of business of said company, it was determined, by a unanimous vote of said board, that the articles of association of said company be amended as aforesaid;

And whereas, at the same time and place, at a meeting of the stockholders of said company, at which stockholders of said company holding more than two-thirds of the capital stock of said company were present, and did vote unanimously in favor of amending the articles of association of said company as aforesaid, and did also vote to increase the capital stock of said company to the sum of seventy millions of dollars, to meet the increased cost of the construction and equipment of said railroad:

Now, therefore, the board of directors of said Southern Pacific Railroad do order and direct that the articles of association of said company be amended so as to read as follows:

Articles of Association, Amalgamation and Consolidation,

Made and executed on this the eleventh day of October, A. D. 1870, by and between the San Francisco and San Jose Railroad Company, of the first part, the Santa Clara and Pajaro Valley Railroad Company, of the second part, the Southern Pacific Railroad Company, of the third part, and the California Southern Railroad Company, of the fourth part, witnesseth:

That whereas, the said party of the first part was heretofore, to wit, on the eighteenth day of August, 1860, duly incorporated and organized under the laws of the State of California, for the purpose of constructing, owning, maintaining and operating a railroad from the city of San Francisco, in the county of San Francisco, in said State, through said county and the counties of San Mateo and Santa Clara, to the city of San Jose, in said last named county, a distance of forty-eight miles;

And whereas, the said party of the second part was heretofore, to wit, on the second day of January, 1868, duly incorporated and organized under the laws of said State, for the purpose of constructing, owning, maintaining and operating a railroad from a point at or near the city of San Jose, in the county of Santa Clara and State aforesaid, connecting at said point with the railroad of the

said party of the first part, and to pass thence to a point at or near the town of New Gilroy, in the same county, a distance of thirty miles;

And whereas, the said party of the third part was heretofore, to wit, on the second day of December, 1865, duly incorporated and organized under the laws of said state, for the purpose of constructing, owning, maintaining and operating a railroad from some point on the bay of San Francisco, in said State, and to pass through the counties of Santa Clara, Monterey, San Luis Obispo, Tulare, Kern, Los Angeles and San Diego, to the town of San Diego in said State; thence eastward through the county of San Diego to the eastern boundary line of said State, a distance of seven hundred and twenty miles, as near as may be, there to connect with a contemplated railroad from said eastern boundary line of said State to the Mississippi river, and has received large grants of land from the Government of the United States to aid in the construction and equipment of said road;

And whereas, the said party of the fourth part was heretofore, to wit, on the twenty-second day of January, 1870, duly incorporated and organized under the laws of said State, for the purpose of constructing, owning and maintaining a railroad from a point at or near the town of Gilroy, in the county of Santa Clara, in said State, and to pass through the counties of Santa Clara, Santa Cruz and Monterey, to a point at or near the town of Salinas City, in said last-named county, a distance of forty-five miles, as near as may be;

And whereas, said parties believe a consolidation and amalgamation of their capital stocks, debts, properties, assets, roads, telegraphs, lands and franchises will be mutually advantageous;

And whereas, more than three-fourths in value of all the stockholders in the interest of each of said parties have consented, in writing, to such amalgamation and consolidation, upon the terms and conditions hereinafter set forth:

Now, therefore, under and by virtue of the statute of the State of California, in such case made and provided, the said parties do hereby mutually covenant and agree, each with each and all the others, to the following articles, to wit:

Article 1. Said parties do hereby amalgamate and consolidate themselves into a new corporation, under the name and style of the Southern Pacific Railroad Company, which new corporation shall continue in existence for the period of fifty years from the date of these articles; and they do further consolidate and amalgamate their several capital stocks, debts, properties, assets, roads, telegraphs, lands, franchises, rights, titles privileges claims, and demands of every kind whatsoever, as well in possession as in expectancy, at law or in equity, and do grant, convey, and vest the same in said new corporation as fully as the same are now severally held and enjoyed by them, or either of them, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, encumbrances, claims, and charges thereon, or in anywise affecting the same.

Article 2. The object and purpose of said new corporation shall be to purchase, construct, own, maintain and operate a continuous line of railroad from the city of San Francisco, in the State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino, and San Diego, to some point on the Colorado river in the southeastern part of the State of California, a distance of seven hundred and twenty miles, as near as may be; also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, a distance of three hundred and twenty-four miles, as near as may be; also a line of railroad from the town of Gilroy, in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City, in said last-named county, a distance of forty-five miles, as near as may be; also such branches to said lines as the board of directors of said new corporation may hereafter consider advantageous to said corporation, and direct to be established.

Article 3. The board of directors of said new corporation shall consist of seven persons; and the following named persons shall act as such directors until their successors shall have been duly elected, pursuant to the by-laws of said new corporation hereafter to be adopted, viz.: Lloyd Tevis, Leland Stanford, Charles Crocker, C. P. Huntington, Mark Hopkins, Charles Mayne, and Peter Donahue.

Article 4. The capital stock of said new corporation shall be seventy million dollars, consisting of seven hundred thousand shares, of one hundred dollars each, that sum being the contemplated actual cost of said railroads, including telegraph lines, rolling stock, motive power, shops, depots, etc.

Article 5. Each stockholder of each of said party shall have the same number of shares of the capital stock of the new corporation which he now owns and holds of the capital stock of his respective company, upon the same terms and conditions, and shall be entitled to receive from said new corporation certificates therefor, where the same has been fully paid up, upon the surrender of the certificates now held by him; and, where the same has not been fully paid up, he shall receive such other evidence of his ownership as the board of directors of said new corporation shall direct, upon the surrender of such evidence of his ownership of such unpaid stock of his respective company as he may now hold.

Article 6. Said new corporation shall assume and perform all the contracts, agreements, covenants, duties and obligations, of what kind soever, of each of said parties, and shall pay and discharge all debts, claims, and demands existing against either and all of said parties, but nothing herein contained shall release the said parties, or either of them, or their stockholders, or any of them, from any of their just liabilities.

In testimony whereof, the said Southern Pacific Railroad Company, by its board of directors, has caused these articles to be signed and countersigned by its president

and secretary, and its corporate seal to be hereunto affixed, on this eleventh (11) day of April, 1871.

SOUTHERN PACIFIC RAILROAD COMPANY,

By CHARLES CROCKER,

President.

[Seal] J. L. WILLCUTT,

Secretary.

[Endorsed]: No. 662. Circuit Court, 9th Circuit, So. Dist. of Cal. United States of America vs. Southern Pacific Railroad Co. Defendant's Answer. Filed Jan. 15, 1896. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., Attorney for defendant, Union Trust Building, San Francisco, Cal.

Circuit Court of the United States, Southern District of California, Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Bill of Complaint in Cause No. 675.

To the Judges of the Circuit Court of the United States for the Southern District of California:

The United States of America, by the attorney general thereof, and Geo. J. Denis, United States attorney, and Joseph H. Call, special assistant attorney, bring this, their bill of complaint against the Southern Pacific Railroad Company, a corporation organized and existing under and by virtue of the laws of the State of California, D. O. Mills and Gerrit L. Lansing, trustees, each a resi-

dent and citizen of the State of California, residing at San Francisco, in said State; the Central Trust Company of New York, a corporation organized and existing under and by virtue of the laws of the State of New York; the Southern Pacific Company, a corporation organized and existing under and by virtue of the laws of the State of Kentucky, and the Colorado River Irrigation Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado.

I.

And thereupon your orators show and allege that the following described land was acquired by the United States of America from Mexico in the year 1846, the title to which was confirmed to your orators by treaty of Guadalupe Hidalgo in the year 1848, and was then, ever since has been, and is now, the property of the United States by title in fee simple, and at all times herein named, the United States were, and still are, the owners and in the possession thereof, except while held by the Texas Pacific Railroad Company hereinafter mentioned; which land is described as follows, to wit:

All the sections of land in California designated by odd numbers, situated within forty (40) miles of the lines of route of the Texas Pacific Railroad Company hereinafter mentioned, and on both sides thereof, as shown by the maps of said company locating its lines of general route and definite location in California now on file in the general landoffice, and filed therein on the —— day of ——, 1871, and on the —— day of ——, 1876; copies of which

maps are introduced in evidence herein and made a part hereof, all of said lands being within the Southern District of California.

II.

Your orators further show that by the act of Congress approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," Congress incorporated the Atlantic and Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of lands in the State of California and other States and territories, and to the whole of which said act your orators refer. (See U. S. Stats., vol. 14, p. 292.)

Your orators further show that by section 18 of said act Congress authorized the Southern Pacific Railroad Company, a corporation claiming to be organized under the laws of the State of California, to connect with said Atlantic and Pacific Railroad, and to aid in its construction, and upon the condition that it would make such connection, agreed to make to said Southern Pacific Railroad Company a grant of lands upon the same terms, conditions, and limitations as were granted to the said Atlantic and Pacific Railroad Company.

III.

Your orators further show unto the Court, and allege that by the act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and

for other purposes" (see U. S. Stats., vol. 16, pp. 573-9), Congress incorporated and created the Texas Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of land in the State of California, and in other States and territories, and to the whole of which said act your orators refer.

IV.

Your orators further show that said Texas Pacific Railroad Company duly accepted said grant, and the terms and conditions of said act, within the time therein required and did designate upon a plat or map the whole of its line of route under said act, from Marshall, Texas, by way of the points and places named in said act, in the time and manner provided in said act, to San Diego, California, to Ship's Channel, in the bay of San Diego; and on or about October 15, 1871, did file such plat in the office of the commissioner of the general landoffice, and which map was approved by the secretary of the interior at that time, and has ever since been treated by said officer as a sufficient and valid location of said railroad, and upon the filing of such map in the office of the secretary of the interior, the United States withdraw from market and reserved all the odd-numbered sections of land in California within forty miles of the line of said railroad, said map being on file in this court, marked "Plaintiff's Exhibit 10," in the case of United States vs. Southern Pacific Railroad Co. et al., No. 587, and now made a part hereof.

V.

Your orators further allege that prior to the fourth day of April, 1874, the Texas Pacific Railroad Company (then known as the Texas & Pacific Railway Company) surveyed, located upon the ground, and definitely fixed its line of railroad from Marshall, Texas, to San Diego, on the bay of San Diego, State of California, and upon that day the board of directors of said railroad company, at a regular meeting in the city of New York, duly made and entered a resolution adopting said line of railroad; and that part of said line from the Colorado river, at Fort Yuma, to the bay of San Diego was and is described as follows:

"Beginning at Fort Yuma, from there the line runs in a northwesterly direction, passing to the north of the Sand Hills and across the Salt Lake District of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert, leaving the mud volcanoes about five miles to the south, and the Dos Palmos stage station about the same distance to the north, we reach the Cabazon Valley, 113 miles from Ft. Yuma; thence on nearly the same course 50 miles, to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable,

as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto, which is known as the Potrero (or pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains. These plains lie between the main range and the Santa Ana range, and down the Temecula Plains to the head of Temecula canyon, and down the canyon where the Temecula breaks through the Santa Ana range, 10 miles to the open valley, striking the coast near the San Coronado ranges, about 40 miles north of San Diego. Then south and down the coast on the western slope of the Soledad mountains, crossing the Soledad, San Luis Rey, San Dieguito, the ravine of La Jolla, skirting False bay; then to the shore of San Diego bay and along the shore of the bay to the depot grounds of the Texas Pacific Railway below the Pacific Steamship Company's wharf. Distance from the Pima villages on the Gila river, 444.4 miles."

Which resolution of said board of directors and line of route so surveyed and fixed upon for construction by said company are set forth in the deposition of Chas. E. Satterlee, taken on behalf of the defendants, on file in this case, and made a part hereof.

Your orators further allege that on or about the first day of July, 1874, said Texas Pacific Railroad Company made its annual report to the secretary of the interior, as required by section 13 of said act of Congress of March 3, 1871, and on that day reported to the secretary of the interior in writing, under oath, that said company had

surveyed and fixed upon for construction its line of route from Marshall, Texas, by way of Fort Yuma on the Colorado river, and by way of San Gorgonio Pass to the bay of San Diego, describing said route so fixed upon as follows, to-wit:

"Description of the lines of road surveyed and fixed for construction * * * Fort Worth to San Diego; commencing at Fort Worth the line follows the valley of the clear fork of Trinity to the mouth of south fork * * *; thence to the Gila, to Sacation, and about 60 miles below the mouth of the San Pedro, and down the valley of the Gila to the Pinos villages; thence to the junction of the Gila with the Colorado of the west at Fort Yuma, at St. Valentine Pass. From there the line passes to the north of sand hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert, leaving the mud volcanoes about five miles to the south, and the Dos Palmos station about the same distance to the north, we reach the Cabozan valley, 113 miles from Fort Yuma; thence 50 miles to the summit of San Gorgonio Pass. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest to the head of Temecula canyon, down the canyon to the open valley, striking the coast about 40 miles north of San Diego bay, and along

the shore of the bay to the depot grounds of the Texas and Pacific Railway, a distance from the Pinos on the Gila river of 444.04 miles; Fort Worth to San Diego, 1,457.64; Shreveport to San Diego, 1,676.64; Texarkana to San Diego, 1,693.63."

Which said annual report for the fiscal year ending June 30, 1874, is filed in evidence herein, marked "Plaintiff's Exhibit 28" in said case No. 587, and now made a part hereof.

Your orators further allege that thereafter and on or about the twenty-eighth day of September, 1876, said Texas Pacific Railroad Company (then known as the Texas and Pacific Railway Company) filed in the office of the secretary of the interior, with its annual report for the year ending June 30, 1876, its map designating its said line of railroad from Marshall, Texas by way of Fort Yuma on the Colorado river, and San Gorgonio Pass, in California, to the bay of San Diego, upon the line of route hereinbefore described as surveyed and definitely fixed as aforesaid and on that date said map was filed in the office of the secretary of the interior, and in the office of the commissioner of the general landoffice. A copy of said map being filed herein, marked "Plaintiff's Exhibit 29" in said case No. 587, and made a part hereof.

Your orators further allege that upon filing said map of 1876 last described said Texas Pacific Railroad Company (then known as the Texas and Pacific Railway Company) became invested with the title to all of the sections of land designated by odd numbers for twenty miles in width on each side of said line of railroad, and with a

right to select indemnity from other sections of land designated by odd numbers for a distance of twenty miles in width from said granted sections, granting to said company in all present and prospective rights, to lands for forty miles in width in the State of California, on each side of said line of railroad.

VI.

Your orators further show to the Court that by section 23 of the said act of Congress, approved March 3, 1871, it was provided as follows: "That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California), to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants and privileges and subject to the same limitations, restrictions, and conditions as were granted to the said Southern Pacific Railroad Company of California by the act of July 27, 1866; provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company."

VII.

Your orators further allege that said Texas Pacific Railroad Company did not within the time or manner required by said act of Congress of March 3, 1871, nor at all, construct or complete any railroad or telegraph line,

in whole or in part within the State of California, nor within the territory of Arizona, and that on the twenty-eighth of February, 1885, all lands and rights to lands granted to and conferred upon said Texas Pacific Railroad Company and situated within the State of California and territory of Arizona were forfeited and resumed to the United States, and said lands were restored to the public domain by the act of Congress approved February 28, 1885 (see U. S. Stats. 337), and to which act your orators refer.

VIII.

Your orators further allege that prior to the date of said grant of March 3, 1871, a large part of the sections of land designated by odd numbers within the twenty miles and primary limits of the grant of said Texas Pacific Railroad Company had been sold, reserved, and otherwise appropriated, and pre-emption and homestead claims had attached thereto.

IX.

Your orators further allege that said line of said Texas Pacific Railroad Company was located so near the boundary line of Mexico that there were not sufficient lands in California within the granted limits to satisfy such grant, but, on the contrary, by reason of the facts aforesaid, said Texas Pacific Railroad Company upon the filing and approval of said maps, filed in the years 1871 and 1876 aforesaid, became invested with a present as well as a valuable prospective right to all said odd-numbered sections of land in California, within forty miles of said lines of

route, and on both sides thereof, so far as such lands were located within said State of California.

X.

Your orators are informed and believe that the defendants herein claim that a line of railroad and telegraph from Tehachapi Pass, by way of Los Angeles, to the Colorado river has been constructed by the Southern Pacific Railroad Company within the time and in the manner provided by said act of Congress of March 3, 1871, above referred to, and that said company did accept said grant and the terms and conditions thereof, and did, in the year 1874, designate its line by a plat thereof, which it filed in the office of the commissioner of the general landoffice on that date, within the time and manner provided by said act, and the defendants claim that the lands above described were granted to said company by said act; and defendants further claim that commissioners, appointed by the President of the United States, have reported that said railroad was constructed in all respects in compliance with said act; but your orators allege that all of said claims and pretenses are false and unfounded; and your orators show that said Southern Pacific Railroad Company named in said act of Congress of March 3, 1871, has not located or constructed any railroad or telegraph line, or any portion thereof, between the points named in section 23 of said act of March 3, 1871, within the time or manner provided by said act, or at all, nor has any connection ever been made with said Texas Pacific Railroad at or near the Colorado river, or at any other point.

XI.

And your orators further allege that none of said lands were granted to said Southern Pacific Railroad Company by said act of March 3, 1871, and that said lands were not included in any grant to said company, or to the defendants herein, or either of them, and that said lands were not of the category o. of the character of lands described in said section 23 of the act of March 3, 1871, to be granted to the company therein named; but, on the contrary, they were lands reserved and otherwise claimed, and said lands are still owned by the United States.

XII.

Your orators further allege that on March 3, 1871, the Southern Pacific Railroad Company named in said act of Congress of that date was not authorized by its charter to construct or operate the line of railroad from Tehachapi Pass, by way of Los Angeles, to the Colorado river, and thereafter, and before any part of any railroad or telegraph line was designated or constructed between the points named in said section 23 of the act of March 3, 1871, and on August 12, 1873, said Southern Pacific Railroad Company did, without any authority from the United States or from Congress of the United States, enter into certain articles of incorporation and consolidation with the Southrn Pacific Branch Railroad Company, a corporation, thereby creating a new corporation and taking new powers under such new charter from the State of California, and thereby surrendering to the United States all the

grants, rights, franchises, and privileges theretofore conferred upon the first said Southern Pacific Railroad Company.

XIII.

And your orators further allege that in the year 1874, and before any part of the railroad between the points named in said section 23 of the act of Congress of March 3, 1871, had been designated, constructed, or completed, said Southern Pacific Railroad Company created by said articles of incorporation and consolidation on August 12, 1873, consolidated with other railroad companies, corporations, creating another and new corporation without any authority from the United States or from Congress of the United States, and taking its new charter from the State of California, and thereby surrendering to the United States all the franchises, grants, rights and privileges, if any then remained, which had been conferred by the Congress of the United States under said act of Congress of March 3, 1871.

XIV.

Your orators further allege that the defendants herein, and each of them, claim some interest in said lands under and by virtue of the said act of March 3, 1871, and not otherwise; the nature and extent of such claims are unknown to your orators, but your orators allege that such claims are not based upon any legal or equitable right to such lands or any thereof.

Your orators further show that said adverse claims of said defendants hinder and embarrass your orators, and

prevent the department of the interior from selling and otherwise disposing of said lands under the laws of the United States.

XV.

Your orators further allege that defendants herein, while claiming and pretending to own some interest in said lands, are now unlawfully removing from said lands, wood, timber, minerals and other valuable deposits, and unlawfully threatening to chop down other trees on said land, and remove other minerals and valuable deposits thereon, and unless enjoined will do so, to the great and irreparable injury of your orators.

XVI.

Your orators further allege that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum of five thousand (5,000) dollars.

XVII.

In tender consideration whereof, and for as much as your orators are remediless at and by the strict rules of the common law, and can only be relieved in a court of equity, your orators pray that the Court will quiet and determine the title of your orators to all the sections and parts of sections of land in the State of California designated by odd numbers upon and along both sides of the lines of railroad designated upon said maps filed by said company in the interior department in the years 1871 and 1876, as aforesaid, within the twenty, thirty and forty mile limits of each thereof, as against all rights, claims and interests of the

defendants to such lands, or any thereof, under and by virtue of the acts of Congress of March 3, 1871, June 28, 1870, July 27, 1866, or any other act of Congress named or to be named in this bill.

And your orators further pray that the Court will forever enjoin the defendants, their servants, agents and employees, and all persons claiming under them, from having or asserting such rights, claims, and interests to such lands under or by virtue of said acts of Congress.

And your orators further pray that the Court will annul all patents, certifications and listings of said lands issued under any authority or pretended authority of the United States to said Southern Pacific Railroad Company under and in pursuance of any of said acts of Congress aforesaid.

And your orators further pray that the Court will determine what lands said Texas Pacific Railroad Company (afterwards known as the Texas and Pacific Railway Company) had a present right to, and what lands said company had a prospective right to by virtue of said grant of March 3, 1871, and said maps filed by said company in the interior department in the years 1871 and 1876, as aforesaid, and will further determine that all such lands were forfeited to the United States for the benefit and use of the United States, and that they are restored to the public domain by said act of Congress of February 28, 1885.

And your orators pray for such other and further relief as to the Court may seem equitable in the premises, and for costs of this suit.

May it please your Honors to grant unto your orators a writ of subpoena issuing out of and under the seal of this Honorable Court, to be directed to the above-named defendants, the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, commanding them on a certain day, and under a certain penalty therein to be inserted, to be and appear before your Honors, and then and there to answer the premises, and further to stand to and abide such order and decree therein as shall be agreeable to equity and to good conscience, and your orators will ever pray.

Your orators expressly waive answer under oath by the defendants and each of them.

JUDSON HARMON,
Attorney General.

JOSEPH H. CALL,
Special Asst. U. S. Atty.

[Endorsed]: No. 675. In the Circuit Court of the United States, Ninth Circuit, Southern District of California. United States vs. Southern Pacific Railroad Company et al. Bill of Complaint. Filed Jan. 29, 1896. Wm. M. Van Dyke, Clerk. Jos. H. Call, Special U. S. Attorney.

UNITED STATES OF AMERICA.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

Subpoena.

The President of the United States of America, Greeting, to the Colorado River Irrigation Company:

You are hereby commanded that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom in Los Angeles, on the second day of March, A. D. 1896, to answer a bill of complaint exhibited against you in said Court by the United States of America, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under penalty of five thousand dollars.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this thirtieth day of January, in the year of our Lord one thousand eight hundred and ninety-six, and of our independence the one hundred and twentieth.

[Seal] WM. M. VAN DYKE,
Clerk.

Memorandum Pursuant to Rule 12, Supreme Court, U. S.

You are hereby required to enter your appearance in the above suit, on or before the first Monday of March

next, at the clerk's office of said court, pursuant to said bill; otherwise the said bill will be taken pro confesso.

WM. VAN DYKE,
Clerk.

United States Marshal's Office,
Southern District of California.

I hereby certify that I received the within writ on the thirtieth day of January, 1896, and personally served the same on the thirtieth day of January, 1896, on the Colorado River Irrigation Company, by delivering to and leaving with Francis W. Jones, the designated agent of said Colorado River Irrigation Company (said Francis W. Jones having been, pursuant to law, designated by said corporation as its agent resident in the State of California upon whom process can be served, etc., and is now such agent), said defendant named therein, personally, at the county of Los Angeles in said district, a certified copy thereof, certified to by Wm. M. Van Dyke, Esq., clerk of the Circuit Court of the United States, Ninth Circuit, Southern District of California.

Los Angeles, Jan. 30, 1896.

N. A. COVARRUBIAS,
U. S. Marshal.

[Endorsed]: Original No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. In Equity. The United States of America vs. The Southern Pacific Railroad Company et al. Subpoena. Filed Jan. 30, 1896. Wm. M. Van Dyke, Clerk.

UNITED STATES OF AMERICA.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

Subpoena.

The President of the United States of America, Greeting, to the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, Trustees, and the Central Trust Company of New York, and the Southern Pacific Company of Kentucky:

You are hereby commanded that you be and appear in said Circuit Court of the United States aforesaid, at the courtroom in Los Angeles, on the second day of March, A. D. 1896, to answer a bill of complaint exhibited against you in said Court by the United States of America, and to do and receive what the said Court shall have considered in that behalf. And this you are not to omit, under penalty of five thousand dollars.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this thirtieth day of January, in the year of our Lord one thousand eight hundred and ninety-six, and of our independence the one hundred and twentieth.

[Seal] WM. M. VAN DYKE,
Clerk.

Memorandum Pursuant to Rule 12, Supreme Court, U. S.

You are hereby required to enter your appearance in the above suit, on or before the first Monday of March next, at the clerk's office of said Court, pursuant to said bill; otherwise the said bill will be taken pro confesso.

WM. VAN DYKE,
Clerk.

United States Marshal's Office,
Northern District of California.

I hereby certify that I received the within writ on the first day of February, 1896, and personally served the same on the third day of February, 1896, on Southern Pacific Company of Kentucky, by delivering to and leaving with C. F. Crocker, vice-president of said Southern Pacific Company of Kentucky, said defendant named therein, personally, at the city and county of San Francisco, in said district, a certified copy thereof.

San Francisco, February 5, 1896.

BARRY BALDWIN,
U. S. Marshal.
By S. P. Monckton,
Deputy.

United States Marshal's Office,
Northern District of California.

I hereby certify that I received the within writ on the first day of February, 1896, and personally served the same on the first day of February, 1896, on the Southern Pacific Railroad Company, by delivering to and leaving

with J. L. Willcutt, secretary of said the Southern Pacific Railroad Company, said defendant named therein, personally, at the city and county of San Francisco, in said district, a certified copy thereof.

San Francisco, February 5, 1896.

BARRY BALDWIN,
U. S. Marshal.
By S. P. Monckton,
Deputy.

[Endorsed]: Original No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. In Equity. The United States of America vs. The Southern Pacific Railroad Company et al. Subpoena. Filed Feb. 12, 1896. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday the tenth day of February, in the year of our Lord one thousand eight hundred and ninety-six. Present: The Honorable OLIN WELLBORN, District Judge.

UNITED STATES,
Plaintiff.
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
No. 675.

Certified Copy of Order Requiring Certain Defendants to Appear.

At a stated term of the Circuit Court of the United States for the Southern District of California, begun and holden at the city of Los Angeles, State of California, on the thirteenth day of January, A. D. 1896, the Honorable Olin Wellborn, United States District Judge for said

Southern District of California, and ex-officio Judge of said Circuit Court, presiding, on the tenth day of February, A. D. 1896, in open court, and Joseph H. Call, special assistant United States attorney having moved the Court for an order to require certain of the defendants in the above-entitled suit to appear, plead, and answer within a time to be specified and hereinafter mentioned, and it appearing to the Court that certain defendants in the above-entitled suit, to wit, D. O. Mills, trustee, and the Central Trust Company of New York and the Southern Pacific Company of Kentucky, are not either of them inhabitants of, nor can they be found within, this judicial district, the Southern District of California, nor within the State of California, and that neither of them has voluntarily appeared to this suit;

And it further appearing to the Court that this suit is one to enforce a claim to certain real estate described in the bill of complaint and within this judicial district;

And it further appearing that there is no person or persons in possession or charge of said real estate:

Now, therefore, it is ordered and adjudged that said D. O. Mills, trustee, the Central Trust Company of New York and the Southern Pacific Company of Kentucky be, and they hereby are, directed to appear in this Court in the city of Los Angeles, State of California, on or before the first Monday in March, A. D. 1896, and to plead, answer, or demur to the bill of complaint in said suit on or before the first Monday of April, A. D. 1896.

And it is further ordered and adjudged that a copy of this order, duly certified by the clerk of this Court, may be

served upon said defendants last named, wherever they may be found.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court, February 10, 1896, in the cause entitled United States, Plaintiff, vs. The Southern Pacific Railroad Company et al., Defendants, No. 675, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order requiring certain defendants to appear. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

In the United States Circuit Court, Southern District of California, Ninth Circuit.

UNITED STATES OF AMERICA,
Complainants,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY and Others,
Defendants.
No. 662.

Replication of the United States to the Answer of Defendant.

This replicant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this replicant without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this replicant is, and will be, ready to aver and prove as this Honorable Court shall direct, and humbly prays as in and by his said bill he hath already prayed.

JOSEPH H. CALL,
Special Asst. U. S. Atty. and of Counsel for Complainants.

[Endorsed]: No. 662. In the United States Circuit Court, Southern District of California. United States of America, Complainants, vs. Southern Pacific Railroad Co. et al., Defendants. Due service hereof admitted by copy this ——, 189—. Filed Feb. 20, 1896. Wm. M. Van Dyke, Clerk. Joseph H. Call, Special Asst. U. S. Atty.

In the Circuit Court of the United States, Southern District of California, Ninth Circuit.

THE UNITED STATES OF AMERICA, Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY, Defendants. } No. 675.

Amended Bill of Complaint.

To the Judges of the Circuit Court of the United States, for the Southern District of California:

The United States of America, by the attorney general thereof, and George J. Denis, United States attorney, and Joseph H. Call, special assistant attorney, by leave of

Court bring this, their amended bill of complaint against the Southern Pacific Railroad Company, a corporation organized and existing under and by virtue of the laws of the State of California; D. O. Mills and Gerrit L. Lansing, trustees, each a resident and citizen of the State of California, residing in San Francisco, in said State; the Central Trust Company of New York, a corporation organized and existing under and by virtue of the laws of the State of New York; the Southern Pacific Company, a corporation organized and existing under and by virtue of the laws of the State of Kentucky; and the Colorado River Irrigation Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado.

I.

And thereupon your orators show and allege that the following described land was acquired by the United States of America from Mexico in the year 1846, the title to which was confirmed to your orators by treaty of Guadalupe Hidalgo in the year 1848, and was then, ever since has been, and is now the property of the United States, by title in fee simple, and at all times herein named the United States were, and still are, the owners and in the possession thereof, except while held by the Texas Pacific Railroad Company hereinafter mentioned; which land is described as follows, to wit:

All the sections of land in California designated by odd numbers, situated within forty (40) miles of the lines of route of the Texas Pacific Railroad Company hereinafter mentioned, and on both sides thereof, as shown by the map of said company locating its line of general route

and its line of route as definitely fixed, as hereinafter particularly mentioned, all of said lands being within the Southern District of California.

II.

Your orators further show that by the act of Congress approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," Congress incorporated the Atlantic and Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of lands in the State of California and other States and territories, and to the whole of which said act your orators refer. (See U. S. Stats., vol. 14, p. 292.)

Your orators further show that by section 18 of said act, Congress authorized the Southern Pacific Railroad Company, a corporation claiming to be organized under the laws of the State of California, to connect with said Atlantic and Pacific Railroad, and to aid in its construction, and, upon the condition that it would make such connection, agreed to make to said Southern Pacific Railroad Company a grant of lands upon the same terms, conditions, and limitations as were granted to the said Atlantic and Pacific Railroad Company.

III.

Your orators further show unto the Court, and allege that by the act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and

for other purposes" (see U. S. Stats., vol. 16, pp. 573-9), Congress incorporated and created the Texas Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of land in the State of California and in other States and territories, and to the whole of which said act your orators refer.

IV.

Your orators further show that said Texas Pacific Railroad Company duly accepted said grant and the terms and conditions of said act, within the time therein required, and did designate upon a plat or map the whole of its line of general route under said act from Marshall, Texas, by way of the points and places named in said act, in the time and manner provided in said act, to San Diego, California, to Ship's Channel, in the bay of San Diego, and on or about October 15, 1871, did file such plat in the office of the commissioner of the general landoffice, and which map was approved by the secretary of the interior at that time, and has ever since been treated by said officer as a sufficient and valid location of said general route, and upon the filing of such map in the office of the secretary of the interior the United States withdrew from the market and reserved all the odd-numbered sections of land in California within forty miles of the line of said railroad, said map being on file in the case of United States v. Southern Pacific Railroad, No. 587, in this Court, marked "Plaintiff's Exhibit No. 10," and now made a part hereof.

V.

Your orators further allege that prior to the fourth day of April, 1874, the Texas Pacific Railroad Company (then known as the Texas and Pacific Railway Company) surveyed, located upon the ground, and definitely fixed its line of railroad from Marshall, Texas, to San Diego, on the bay of San Diego, State of California, and upon that day the board of directors of said railroad company, at a regular meeting in the city of New York, duly made and entered a resolution adopting said line of railroad; and that part of said line from the Colorado river at Fort Yuma to the bay of San Diego was and is described as follows:

"Beginning at Fort Yuma, from there the line runs in a northwesterly direction, passing to the north of the Sand Hills, and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert. Leaving the mud volcanoes about five miles to the south, and the Dos Palmos stage station about the same distance to the north, we reach the Cabazon Valley, 113 miles from Fort Yuma; thence on nearly the same course 50 miles to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto

mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto, which is known as the Potrero (or pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains. These plains lie between the main range and the Santa Ana range, and down the Temecula plains to the head of Temecula canyon, and down the canyon where the Temecula breaks through the Santa Ana range, 10 miles to the open valley, striking the coast near the San Coronado ranges about 40 miles north of San Diego; then south and down the coast on the western slope of the Soledad mountains, crossing the Soledad, San Luis Rey, San Dieguito, the ravine of La Jolla, skirting False bay; then to the shore of San Diego bay, and along the shore of the bay to the depot grounds of the Texas Pacific Railway below the Pacific Steamship Company's wharf. Distance from the Pinos villages on the Gila river, 444.4 miles."

Which resolution of said board of directors, and line of route so surveyed and fixed upon for construction by said company, are set forth in the deposition of Chas. E. Satterlee, taken on behalf of the defendants, on file in said case No. 587 in this Court, and made a part hereof.

Your orators further allege that on or about the first day of July, 1874, said Texas Pacific Railroad Company made its annual report to the secretary of the interior, as required by section 13 of said act of Congress of March 3, 1871, and on that day reported to the secretary of the interior, in writing, under oath, that said company had surveyed and fixed upon for construction its line of route from Marshall, Texas, by way of Fort Yuma, on the Colo-

rado river, and by way of San Gorgonio Pass, to the bay of San Diego, describing said route so fixed upon as follows, to wit:

"Description of the line of road surveyed and fixed for construction * * * Fort Worth to San Diego: Commencing at Fort Worth, the line follows the valley of the clear fork of Trinity to the mouth of south fork * * *; thence to the Gila, to Sacaton, and about 60 miles below the mouth of the San Pedro, and down the valley of the Gila to the Pinos villages; thence to the junction of the Gila with the Colorado of the west at Fort Yuma, at St. Valentine's Pass. From there the line passes to the north of sand hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert. Leaving the mud volcanoes about five miles to the south, and the Dos Palmos station about the same distance to the north, we reach the Cabazon valley, 113 miles from Fort Yuma, thence 50 miles to the summit of San Gorgonio Pass. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest to the head of Temecula canyon, down the canyon to the open valley, striking the coast about 40 miles north of San Diego bay, and along the shore of the bay to the depot grounds of the Texas and Pacific Railway, a distance from the Pinos on the Gila river of 444.4 miles; Fort Worth to San Diego, 1,457.64;

Shreveport to San Diego, 1,676.64; Texarkana to San Diego, 1,693.63."

Which said annual report for the fiscal year ending June 30, 1874, is filed in evidence in said case No. 587, in this Court, marked "Plaintiff's Exhibit 28," and now made a part hereof. Your orators further allege that thereafter, and on or about the twenty-eighth day of September, 1876, said Texas Pacific Railroad Company (then known as the Texas and Pacific Railway Company) filed in the office of the secretary of the interior, with its annual report for the year ending June 30, 1876, its map designating its said line of railroad from Marshall, Texas, by way of Fort Yuma, on the Colorado river and San Gorgonio Pass, in California, to the bay of San Diego, upon the line of route hereinbefore described as surveyed and definitely fixed as aforesaid, and on that date said map was filed in the office of the secretary of the interior, and in the office of the commissioner of the general land-office, a copy of said map being filed in said case No. 587, marked "Plaintiff's Exhibit 29," and made a part thereof.

Your orators further allege that upon filing said annual report and definitely fixing said line of route said Texas Pacific Railroad Company (then known as the Texas and Pacific Railway Company) became invested with the title to all of the sections of land designated by odd numbers for twenty miles in width on each side of said line of railroad, and with a right to select indemnity from other sections of land designated by odd numbers for a distance of twenty miles in width from said granted sections, granting to said company in all present and prospective rights

to lands for forty miles in width in the State of California, on each side of said line of railroad.

VI.

Your orators further show to the Court that by section 23 of the said act of Congress, approved March 3, 1871, it was provided as follows: "That for the purpose of connecting the Texas Pacific Railroad Company with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants and privileges, and subject to the same limitations, restrictions, and conditions as were granted to the said Southern Pacific Railroad Company of California by the act of July 27, 1866; provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company."

VII.

Your orators further allege that said Texas Pacific Railroad Company did not within the time or manner required by said act of Congress of March 3, 1871, nor at all construct or complete any railroad or telegraph line, in whole or in part, within the State of California, nor within the territory of Arizona, and that, on the twenty-eighth of February, 1885, all lands and rights to *lan* lands granted to and conferred upon said Texas Pacific Railroad Company, and situated within the State of Califor-

nia and territory of Arizona, were forfeited and resumed to the United States, and said lands were restored to the public domain by the act of Congress, approved February 28, 1885 (see 23 U. S. Stats. 337), and to which act your orators refer.

VIII.

Your orators further allege that prior to the date of said grant of March 3, 1871, a large part of the sections of land designated by odd numbers within the twenty miles and primary limits of the grant of said Texas Pacific Railroad Company had been sold, reserved, and otherwise appropriated, and pre-emption and homestead claims had attached thereto.

IX.

Your orators further allege that said line of said Texas Pacific Railroad Company was located so near the boundary line of Mexico that there were not sufficient lands in California within the granted limits to satisfy such grant, but on the contrary, by reason of the facts aforesaid, said Texas Pacific Railroad Company, upon the filing and approval of said maps filed in the years 1871 and 1876, aforesaid, and definitely fixing said line, became invested with a present as well as a valuable prospective right to all said odd-numbered sections of land in California, within forty miles of said lines of route, and on both sides thereof, so far as such lands were located within said State of California.

X.

Your orators are informed and believe that the defendants herein claim that a line of railroad and telegraph

from Tehachapi Pass, by way of Los Angeles, to the Colorado river has been constructed by the Southern Pacific Railroad Company within the item, and in the manner provided by said act of Congress of March 3, 1871, above referred to, and that said company did accept said grant and the terms and conditions thereof, and did, in the year 1874, designate its line by a plat thereof, which it filed in the office of the commissioner of the general land-office on that date, within the time and manner provided by said act, and the defendants claim that the lands above described were granted to said company by said act, and defendants further claim that commissioners appointed by the President of the United States have reported that said railroad was constructed in all respects in compliance with said act; but your orators allege that all of said claims and pretenses are false and unfounded; and your orators show that said Southern Pacific Railroad Company named in said act of Congress of March 3, 1871, has not located or constructed any railroad or telegraph line, or any portion thereof, between the points named in section 23 of said act of March 3, 1871, within the time or manner provided by said act, or at all, nor has any connection ever been made with said Texas Pacific Railroad at or near the Colorado river, or at any other point.

XI.

Your orators further allege that none of said lands were granted to said Southern Pacific Railroad Company by said act of March 3, 1871, and that said lands were not included in any grant to said company, or to the defendants herein, or either of them, and that said lands

were not of the category or of the character of lands described in said section 23 of the act of March 3, 1871, to be granted to the company therein named; but, on the contrary, they were lands reserved and otherwise claimed, and said lands are still owned by the United States.

XII.

Your orators further allege that on March 3, 1871, the Southern Pacific Railroad Company named in said act of Congress of that date was not authorized by its charter to construct or operate the line of railroad from Tehachapi Pass, by way of Los Angeles, to the Colorado river, and thereafter, and before any part of any railroad or telegraph line was located or constructed between the points named in section 23 of said act of March 3, 1871, and on August 12, 1873, said Southern Pacific Railroad Company did, without any authority from the United States or from Congress of the United States, enter into certain articles of incorporation and consolidation with the Southern Pacific Branch Railroad Company, a corporation, thereby creating a new corporation and taking new powers under such new charter from the State of California, and thereby surrendering to the United States all the grants, rights, franchises, and privileges theretofore conferred upon the first said Southern Pacific Railroad Company.

XIII.

And your orators further allege that in the year 1874, and before any part of the railroad between the points named in said section 23 of the act of Congress of March 3, 1871, had been designated, constructed, or completed,

said Southern Pacific Railroad Company, created by said articles of incorporation and consolidation on August 12, 1873, consolidated with other railroad companies, corporations, creating another and new corporation, without any authority from the United States or from Congress of the United States, and taking its new charter from the State of California, and thereby surrendering to the United States all the franchises, grants, rights, and privileges, if any then remained, which had been conferred by the Congress of the United States under said act of Congress of March 3, 1871.

XIV.

Your orators further allege that the defendants herein, and each of them claim some interest in said lands under and by virtue of the said act of March 3, 1871, and not otherwise; the nature and extent of such claims are unknown to your orators, but your orators allege that such claims are not based upon any legal or equitable right to such lands, or any thereof.

Your orators further show that said adverse claims of said defendants hinder and embarrass your orators, and prevent the department of the interior from selling and otherwise disposing of said lands under the laws of the United States.

XV.

Your orators further allege that defendants herein, while claiming and pretending to own some interest in said lands, are now unlawfully removing from said lands wood, timber, minerals, and other valuable deposits, and unlawfully threatening to chop down other trees on said

land, and remove other minerals and valuable deposits thereon, and unless enjoined will do so, to the great and irreparable injury of your orators.

XVI.

Your orators further allege that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum of five thousand (5,000) dollars.

XVII.

In view of the premises, and forasmuch as your orators are remediless at and by the strict rules of the common law, and can only be relieved in a court of equity, your orators pray that the Court will quiet and determine the title of your orators to all the sections and parts of sections of land in the State of California, designated by odd numbers, upon and along and upon both sides of the lines of railroad designated upon said map of general route filed by said company in the interior department in the year 1871, and said line definitely fixed as aforesaid, within the twenty, thirty, and forty mile limits of each thereof, as against all rights, claims and interests of the defendants to such lands, or any thereof, under and by virtue of the acts of Congress of March 3, 1871, June 28, 1870, July 27, 1866, or any other act of Congress named or to be named in this bill.

And your orators further pray that the Court will forever enjoin the defendants, their servants, agents, and employés, and all persons claiming under them, from having or asserting such rights, claims, and interests to such lands under or by virtue of said acts of Congress.

And your orators further pray that the Court will annul all patents, certifications, and listings of said lands issued under any authority or pretended authority of the United States to said Southern Pacific Railroad Company under and in pursuance of said acts of Congress aforesaid.

And your orators further pray that the Court will determine that the allegations of this bill are true, and will further determine what lands said Texas Pacific Railroad Company (afterward known as the Texas & Pacific Railway Company) had a present right to, and what lands said company had a prospective right to by virtue of said grant of March 3, 1871, and will further determine that all such were forfeited to the United States for the benefit and use of the United States, and that they were restored to the public domain by said act of Congress of February 28, 1885.

And your orators pray for such other and further relief as to the Court may seem equitable in the premises, and for costs of this suit.

May it please your Honors to grant unto your orators a writ of subpoena issuing out of and under the seal of this Honorable Court, to be directed to the above-named defendants, the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, commanding them, on a certain day and under a certain penalty therein to be inserted, to be and appear before your Honors, and then and there to answer the premises, and further to stand to and abide such or-

der and decree therein as shall be agreeable to equity and to good conscience; and your orators will ever pray.

Your orators expressly waive answer under oath by the defendants and each of them.

JOSEPH H. CALL,
Special Asst. U. S. Attorney.
GEORGE J. DENIS,
United States Attorney.

[Endorsed]: No. 675. United States Circuit Court, Southern District of California. United States vs. Southern Pacific Railroad Company. Amended bill. Filed Feb. 21, 1896. Wm. M. Van Dyke, Clerk. Joseph H. Call, Spl. Asst. U. S. Atty.

At a stated term, to wit, the January term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Saturday, the fourteenth day of March, in the year of our Lord, one thousand eight hundred and ninety-six. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA, Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants. } No. 587.

Certified Copy of Order Consolidating Cases Nos. 587, 675, and 662.

This cause coming on this day to be heard on complainants' motion for an order consolidating said suit and the suits entitled and numbered, respectively, The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 675, and The United States of America, Complainants, vs. The Southern Pacific Railroad Company, Defendant, No. 662, and for a further order that they be heard together upon a single record, and that the plaintiffs may have leave to file an amended bill of complaint in such consolidated cases, and that such consolidated cases shall be numbered 675, George J. Denis, Esq., United States attorney, and Joseph H. Call, Esq., special assistant United States attorney, appearing as counsel for the com-

plainants, and Wm. Singer, Jr., Esq., appearing as counsel for the defendants, and said counsel having stipulated and agreed in open court that these cases be consolidated as one suit, that plaintiff shall file one amended bill in said consolidated suit, that defendants have the usual time to plead, answer, or demur thereto, that testimony heretofore taken and evidence offered in suit No. 587 shall be considered the same as if taken or offered in such consolidated suit, and that either party may take further testimony within the usual time upon all issues, it is now, pursuant to said stipulation and agreement, ordered that said motion be, and the same hereby is, granted.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order, made and entered by said Court, March 14, 1896, in the cause, entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 587. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order consolidating cases, Nos. 587, 675, and 662, etc. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Saturday, the fourteenth day of March, in the year of our Lord, one thousand eight hundred and ninety-six. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA, Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, Defendant.
No. 662.

Certified Copy of Order Consolidating Cases Nos. 587, 675, and 662.

This cause coming on this day to be heard on complainants' motion for an order consolidating said suit and the suits entitled and numbered, respectively, The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 675, and The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and for a further order that they be heard together upon a single record, and that the plaintiffs may have leave to file an amended bill of complaint in such consolidated cases, and that such consolidated cases shall be numbered 675, George J. Denis, Esq., United States attorney, and Joseph H. Call, Esq., special assist-

ant United States attorney, appearing as counsel for the complainants, and Wm. Singer, Esq., appearing as counsel for the defendant, and said counsel having stipulated and agreed in open court that these cases be consolidated as one suit, that plaintiff shall file one amended bill in said consolidated suit, that defendants have the usual time to plead, answer, or demur thereto, that testimony heretofore taken and evidence offered in suit No. 587 shall be considered the same as if taken or offered in such consolidated suit, and that either party may take further testimony within the usual time upon all issues, it is now, pursuant to said stipulation and agreement, ordered that said motion be, and the same hereby is, granted.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order, made and entered by said Court, March 14, 1896, in the cause, entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company, Defendant, No. 662, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 662. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order consolidating cases 587, 675, and 662, etc. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Saturday, the fourteenth day of March, in the year of our Lord, one thousand eight hundred and ninety-six. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.
Defendants.
No. 675.

Certified Copy of Order Consolidating Cases Nos. 587, 675, and 662.

This cause coming on this day to be heard on complainants' motion for an order consolidating said suit and the suits entitled and numbered, respectively, The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., No. 587, and The United States of America, Complainants, vs. The Southern Pacific Railroad Company, Defendant, No. 662, and for a further order that they be heard together upon a single record, and that the plaintiffs may have leave to file an amended bill of complaint in such consolidated cases,

and that such consolidated cases shall be numbered 675, George J. Denis, Esq., United States attorney and Joseph H. Call, Esq., special assistant United States attorney, appearing as counsel for the complainants, and Wm. Singer, Jr., Esq., appearing as counsel for defendants, D. O. Mills, trustee, the Southern Pacific Railroad Company, and the Southern Pacific Company of Kentucky, and Wm. H. H. Hart, Esq., appearing as counsel for the Colorado River Irrigation Company, and Charles P. Eells, Esq., appearing as counsel for the defendant, The Central Trust Company of New York, and said counsel having stipulated and agreed in open court that these cases be consolidated as one suit, that plaintiff shall file one amended bill in said consolidated suit, that defendants have the usual time to plead, answer, or demur thereto, that testimony heretofore taken and evidence offered in suit No. 587 shall be considered the same as if taken or offered in such consolidated suit, and that either party may take further testimony within the usual time upon all issues, it is now, pursuant to said stipulation and agreement, ordered that said motion be, and the same hereby is, granted.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order, made and entered March 14, 1896, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 675, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order consolidating cases 587, 662, and 675, etc. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Southern District of California, Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiffs.

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 675.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 587.

THE UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY,
Defendant.

No. 662.

Amended Bill of Complaint in Consolidated Cause No. 675.

To the Judges of the Circuit Court of the United States for the Southern District of California:

The United States of America, by the attorney general thereof, and George J. Denis, United States attorney, and Joseph H. Call, special assistant attorney, in pursuance of an order of Court consolidating the three above-entitled suits, and authorizing the complainant to file one amended bill for such three consolidated suits, bring this, their amended and supplemental bill of complaint against the Southern Pacific Railroad Company, a cor-

poration organized and existing under and by virtue of the laws of the State of California, D. O. Mills and Gerrit L. Lansing, trustees, each a resident and citizen of the State of California, residing in San Francisco, in said State, the Central Trust Company of New York, a corporation organized and existing under and by virtue of the laws of the State of New York, the Southern Pacific Company, a corporation organized and existing under and by virtue of the laws of the State of Kentucky, and the Colorado River Irrigation Company, a corporation organized and existing under and by virtue of the laws of the State of Colorado.

I.

And thereupon your orators show and allege that the following described land was acquired by the United States of America from Mexico in the year 1846, the title to which was confirmed to your orators by treaty of Guadalupe Hidalgo in the year 1848, and was then, ever since has been, and is now the property of the United States, by title in fee simple, and at all times herein named the United States were and still are the owners and in the possession thereof, except while held by the Texas Pacific Railroad Company, hereinafter mentioned; which land is described as follows, to wit:

All the sections of land in California designated by odd numbers, situated within thirty (30) miles and within the thirty (30) mile limits of the line of railroad of the Southern Pacific Railroad Company, opposite to and coterminous with that part of said railroad between the west line of range 7 west, San Bernardino meridian, and

the Colorado river in California, as shown by the map of said line of said railroad and the twenty (20) and thirty (30) mile limits thereof, which said maps are a part of the record in this case, marked Defendant's Exhibits Nos. 39, 40, and 42, and now made a part hereof, and such maps also being a part of the record in case No. 600 in this Court, marked, respectively, Defendant's Exhibits Nos. 320, 321, and 323.

II.

Your orators further show that by the act of Congress, approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," Congress incorporated the Atlantic and Pacific Railroad Company and granted to said company, to aid in the construction of said railroad, a large amount of lands in the State of California, and other States and territories, and to the whole of which said act your orators refer. (See U. S. Stats., Vol. 14, p. 292.)

Your orators further show that by section 18 of said act Congress authorized the Southern Pacific Railroad Company, a corporation claiming to be organized under the laws of the State of California, to connect with said Atlantic and Pacific Railroad, and to aid in its construction, and, upon the condition that it would make such connection, agreed to make to said Southern Pacific Railroad Company a grant of lands upon the same terms, conditions, and limitations as were granted to the said Atlantic and Pacific Railroad Company.

III.

Your orators further show unto the Court, and allege, that by the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes" (see U. S. Stats., Vol. 16, pp. 573-9), Congress incorporated and created the Texas Pacific Railroad Company, and granted to said company, to aid in the construction of said railroad, a large amount of land in the State of California, and in other States and territories, and to the whole of which said act your orators refer.

IV.

Your orators further show that said Texas Pacific Railroad Company duly accepted said grant and the terms and conditions of said act, within the time therein required, and did designate upon a plat or map the whole of its line of general route under said act, from Marshall, Texas, by way of the points and places named in said act, in the time and manner provided therein in said act, to San Diego, California, to Ship's Channel, in the bay of San Diego, and on or about October 15, 1871, did file such plat in the office of the commissioner of the general landoffice, and which map was approved by the secretary of the interior at that time, and has ever since been treated by said officer as a sufficient and valid location of said general route, and upon the filing of such map in the office of the secretary of the interior the United States withdrew from market and reserved all the odd-numbered sections of land in California within forty miles of the

line of said railroad, said map being on file in said case of United States v. Southern Pacific Railroad, No. 587, in this Court, marked Plaintiff's Exhibit No. 10, and now made a part hereof.

V.

Your orators further allege that prior to the fourth day of April, 1874, the Texas Pacific Railroad Company (then known as the Texas & Pacific Railway Company) surveyed, located upon the ground, and definitely fixed its line of railroad from Marshall, Texas, to San Diego, on the bay of San Diego, State of California, in all respects as required by said act of March 3, 1871. And your orators allege that all of the lands described in paragraph 1 of this bill fall within the primary and indemnity limits of said line of railroad of said Texas Pacific Railroad Company as so definitely fixed as aforesaid, and they were all lands to which said company then held the legal title, or were lands which said company was entitled to select as indemnity for losses within its place limits, and they were all lands to which said company had present rights as well as prospective rights within the meaning of section 23 of said act of Congress of March 3, 1871.

Your orators further allege that, when said railroad was so definitely fixed by said Texas Pacific Railroad Company, all of the lands so described in paragraph 1 of this bill were by authority of United States withdrawn from market and reserved and they were so reserved for the benefit of said Texas Pacific Railroad Company, and they so remained withdrawn and reserved until said grant to said Texas Pacific Railroad Company was for-

feited to the United States, as herein more particularly set forth. Your orators allege that none of said lands aforesaid within either the primary or indemnity limits of the line of said Texas Pacific Railroad Company, as so definitely fixed, or within the primary or indemnity limits of said company's said line of road as located by said map of general route, were granted to said Southern Pacific Railroad Company or operated upon by section 23 of said act of March 3, 1871, or by any other act of Congress, and your orators deny that they were intended to be granted to said company by Congress or to be operated upon by the provisions of said section.

VI.

Your orators further show to the Court that by section 23 of the said act of Congress, approved March 3, 1871, it was provided as follows: "That for the purpose of connecting the Texas Pacific Railroad Company with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions, as were granted to the said Southern Pacific Railroad Company of California by the act of July 27, 1866; provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company."

Your orators allege that the Southern Pacific Railroad Company, defendant herein, on or about January 31, 1878, located, constructed, and equipped its line of railroad and telegraph from Mojave, near Tehachapi Pass, via Los Angeles, to the Colorado river near Fort Yuma, California, in all respects as required and authorized by said section 23 of the act of Congress of March 3, 1871 (except that no connection was made with the Texas Pacific Railroad), and which railroad and telegraph was then accepted and approved by commissioners appointed by the President of the United States.

Your orators further allege that said line of railroad and telegraph of said Southern Pacific Railroad Company, and the twenty and thirty mile limits thereof, through the lands in suit herein, is correctly shown by the maps or plats in evidence in this case marked Defendant's Exhibits Nos. 39, 40, and 42, and now made a part hereof, and said maps being also a part of the record in case 600 in this Court, marked Defendant's Exhibits 320, 321, and 323.

VII.

Your orators further allege that said Texas Pacific Railroad Company did not within the time or manner required by said act of Congress of March 3, 1871, nor at all, construct or complete any railroad or telegraph line, in whole or in part, within the State of California, nor within the territory of Arizona, but failed and refused so to do, and that, on the 28th of February, 1885, all lands and rights to lands granted to and conferred upon said Texas Pacific Railroad Company, and situated within

the State of California and territory of Arizona, were forfeited and resumed to the United States, and said lands were restored to the public domain by the act of Congress, approved February 28, 1885 (see 23 U. S. Stats. 337), and to which your orators refer.

VIII.

Your orators further allege that prior to the date of said grant of March 3, 1871, a large part of the sections of land designated by odd numbers within the twenty miles or primary limits of the grant of said Texas Pacific Railroad Company had been sold, reserved, and otherwise appropriated, and pre-emption and homestead claims had attached thereto.

IX.

Your orators further allege that said line of said Texas Pacific Railroad Company was located so near the boundary line of Mexico that there were not sufficient lands in California within the granted limits to satisfy such grant; but on the contrary, by reason of the facts aforesaid, said Texas Pacific Railroad Company, upon the filing and approval of said map filed in the year 1871, and upon definitely fixing said line, became invested with a present as well as a valuable prospective right to all said odd-numbered sections of land in California, within forty miles of said lines of route, and on both sides thereof, so far as such lands were located within said State of California.

X.

Your orators allege that in July, 1887, one Joseph Crawford, then a citizen of the United States, settled

upon the northwest quarter (¼) of section 17, township 7 south, range 3 east, San Bernardino base and meridian, claiming the same as a homestead under the homestead laws of the United States, it then being public land, and said Crawford then being qualified to enter said land as a homestead; and thereafter, and before said Crawford was required by the laws of the United States to enter said land at the United States landoffice, said defendant railroad company selected, or pretended to select, said land as indemnity, and thereby prevented said Crawford from entering said land and obtaining the legal title thereto under the homestead laws of the United States, of which selection and approval thereof said Crawford had no notice or knowledge.

XI.

And your orators allege that, from the date of his settlement upon said land in July, 1887, as aforesaid, down to the present time, said Crawford has continued to occupy and reside upon and cultivate said land, claiming the same as a homestead, complying with all the requirements of the homestead laws of the United States, and prior to the time of the commencement of this suit he attempted to enter said land at the United States landoffice at Los Angeles, California, and tendered the fees for such entry, but his said entry was rejected, for that said land had been theretofore illegally, erroneously, and inadvertently certified to defendant railroad company, but subsequent to said Crawford's settlement and entry thereon, and while it was so settled upon and held by said Crawford.

XII.

Your orators further allege that the defendants herein, and each of them, claim some interest in all said lands described in paragraph I of this bill under and by virtue of section 23 of said act of March 3, 1871, and not otherwise; the nature and extent of such claims are unknown to your orators; but your orators allege that said defendants have no legal or equitable right or title to such lands, or any thereof, or any interest therein.

Your orators further show that said adverse claims of said defendants hinder and embarrass your orators, and prevent the department of the interior from selling and otherwise disposing of said lands under the laws of the United States.

XIII.

Your orators further allege that defendants herein, while claiming and pretending to own some interest in said lands, are now unlawfully removing from said lands wood, timber, minerals and other valuable deposits, and unlawfully threatening to chop down growing trees on said land and remove other minerals and valuable deposits thereon, and unless enjoined will do so, to the great and irreparable injury of your orators.

XIV.

Your orators further allege that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum of five thousand (5,000) dollars; and the value of the lands claimed by the defendants greatly exceeds said sum.

In view of the premises, and forasmuch as your orators are remediless at and by the strict rules of the common law, and can only be relieved in a court of equity, your orators pray that the Court will quiet and determine the title of your orators to all the sections and parts of sections of land in the State of California, designated by odd numbers, upon and along and upon both sides of the lines of railroad designated upon said map of general route filed by said company in the interior department in the year 1871, and said line definitely fixed as aforesaid, within the twenty, thirty, and forty mile limits of each thereof, including the lands described in paragraph I of this bill, as against all rights, claims, and interests of the defendants to such lands, or any thereof, under and by virtue of the acts of Congress of March 3, 1871, June 28, 1870, July 27, 1866, or any other act of Congress named or to be named in this bill.

And your orators further pray that the Court will forever enjoin the defendants, their servants, agents, and employés, and all persons claiming under them, from having or asserting such rights, claims and interests to such lands under or by virtue of said acts of Congress.

And your orators further pray that the Court will annul all patents, certifications, and listings of said lands issued under any authority or pretended authority of the United States to said Southern Pacific Railroad Company, under and in pursuance of said acts of Congress as aforesaid.

And your orators further pray that the Court will determine that the allegations of this bill are true, and will further determine what lands said Texas Pacific Railroad

Company (afterward known as the Texas & Pacific Railway Company) had a present right to, and what lands said company had a prospective right to, by virtue of said grant of March 3, 1871, and will further determine that all such lands were forfeited to the United States for the benefit and use of the United States, and that they were restored to the public domain by said act of Congress of February 28, 1885.

Your orators further pray that if it shall be found upon the final hearing of this cause that any of such lands described in paragraph I of this bill have been sold by said Southern Pacific Railroad Company to persons, they being bona fide purchasers of such lands, or any thereof, within the meaning of the act of Congress of March 2, 1896, or the act of Congress of March 3, 1887, that, as to all such lands, defendant Southern Pacific Railroad Company be required to pay to your orators the value of such lands.

And your orators pray for such other and further relief as to the Court may seem equitable in the premises, and for costs of this suit.

Your orators expressly waive answer under oath by the defendants and each of them.

JUDSON HARMON,
Attorney General.
JOSEPH H. CALL,
Special Asst. U. S. Attorney.
GEORGE J. DENIS,
United States Attorney, Southern District of California.

[Endorsed]: Consolidated Nos. 675, 587, 662. United States Circuit Court, Southern District of California. United States vs. Southern Pacific Railroad Company. Amended bill. Filed May 26, 1896. Wm. M. Van Dyke, Clerk. Joseph H. Call, Special Asst. U. S. Atty.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

THE UNITED STATES OF AMERICA, Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO RIVER IRRIGATION COMPANY, Defendants.

Consolidated No. 675.

Joint and Several Answer to Amended Bill of Complaint in Consolidated Cause No. 675.

The joint and several answer of the defendants Southern Pacific Railroad Company, D. O. Mills, trustee, Central Trust Company of New York, Southern Pacific Company of Kentucky, and Colorado River Irrigation Com-

pany, to the plaintiffs' amended bill of complaint filed herein on May 26, 1896.

These defendants, Southern Pacific Railroad Company, D. O. Mills, trustee, Central Trust Company of New York, Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, respectively, now and at all times saving to themselves all, and all manner of, benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties, or imperfections in the said amended bill of complaint, for answer thereto, or to so much thereof as the defendants are advised it is material or necessary for them to make answer to, jointly and severally answering, say:

1st. They admit that by the Guadalupe Hidalgo treaty, confirmed during the year 1848, the United States acquired title in fee to the lands described in subdivision I of the said amended bill of complaint filed May 26, 1896 (hereinafter, for brevity, referred to as "said bill").

The defendants say that by an act approved July 27, 1866, hereinafter more particularly set forth, Congress granted a portion of the lands described in subdivision I of the said bill to the defendant Southern Pacific Railroad Company; and by an act approved March 3, 1871, hereinafter more particularly set forth, Congress granted to the said defendant all the lands described in subdivision I of the said bill, *nor* theretofore granted it by the said act of July 27, 1866.

The defendants deny that any of the lands described in subdivision I of the said bill, which lie within the limits of the grant made to the said defendant by the act of July 27, 1866, or which were withdrawn (as hereinafter shown)

in pursuance of the said act, are, or at any time since the passage of the said act were, the property, or in the possession of, the United States; or that the United States have, or at any time since the passage of the said act had, fee simple or other title to any of such lands; or that any such lands *lands* are, or ever were, held by the Texas Pacific Railroad Company.

And they also deny that any of the lands described in subdivision I of the said bill, which lie within the limits of the grant made to the said defendant by the act of March 3, 1871, or which were withdrawn (as hereinafter shown) in pursuance of the said act, are, or at any time since the passage of the said act were, the property of, owned by, or in the possession of the United States; or that the United States have, or at any time since the passage of the said act had, fee simple or other title to any of such lands; or that any of such lands are or ever were held by the Texas Pacific Railroad Company.

2d. The defendants admit that by the act approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," Congress incorporated the Atlantic and Pacific Railroad Company, and the said act contained provisions respecting a grant of lands, as by reference thereto will fully appear; but say that such grant was made upon the conditions and limitations specified in said act, and that the said company did not designate the line of, nor locate, nor construct any railroad in the State of California, nor acquire any grant of lands therein. And they expressly deny that any grant to the Atlantic and Pacific Railroad

Company under said act ever attached to any specific lands in the State of California.

And they also admit and say that by section 18 of the last-mentioned act, Congress authorized the defendant Southern Pacific Railroad Company, a corporation, claiming to be and which was organized under the laws of the State of California, to connect with the Atlantic and Pacific Railroad; but deny that by the said section it merely agreed to make the said company a land grant, or that any of the provision or provisions of that section was or were upon condition that the Southern Pacific Railroad Company would make a connection with the said Atlantic and Pacific Railroad.

In this behalf the defendants say that the Southern Pacific Railroad Company is, and ever since December 2, 1865, has been, a corporation duly organized and existing under the laws of the State of California. That the act of July 27, 1866, hereinbefore mentioned, authorized the said company to connect with the Atlantic and Pacific Railroad at such point near the boundary line of the State of California as they should deem most suitable for a railroad line to San Francisco, and to construct a railroad from such point to San Francisco. To aid in the construction of such railroad, the said act made a grant to the defendant Southern Pacific Railroad Company of every alternate section of public land, not mineral, designated by odd numbers, to the amount of ten alternate sections of land per mile on each side of said railroad, whenever on the line thereof the United States should have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or

rights at the time the line of said road should be designated by a plat thereof, filed in the office of the commissioner of the general landoffice. And the said act further provided that whenever prior to said time any of the said sections or parts of sections should have been granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands should be selected by said company in lieu thereof, under the direction of the secretary of the interior, in alternate sections, designated by odd numbers, not more than ten miles beyond the limits of the first-mentioned sections. The said act, as printed in the 14th Statute at Large, at page 292 and following, is referred to and made part of this answer.

The said defendant duly accepted the terms, conditions, and impositions of the said act, fixed the general route of the entire line of the said railroad, and on January 3, 1867, the line thereof was designated by a plat filed on that day in the office of the commissioner of the general landoffice. The said general route, plat, and designation of line were duly approved and accepted by the commissioner of the general landoffice and secretary of the interior; and on March 22, 1867, the commissioner of the general landoffice, by direction of the secretary of the interior, withdrew the odd-numbered sections of land within thirty miles of the railroad line shown upon the said plat. All of such lands have ever since remained so withdrawn, by virtue of the said withdrawal, and by the provisions of section 6 of the said act. On June 28, 1870, a joint resolution was adopted by Congress, entitled "Joint

resolution concerning the Southern Pacific Railroad of California," which is printed in the 16th U. S. Statute at Large, page 382, and the whole thereof is made a part of this answer.

That the said defendant constructed the first thirty miles of its railroad within the time allowed by the said act and the act approved July 25, 1868, entitled "An act to extend the time for the construction of the Southern Pacific Railroad in the State of California"; and the railroad of the said defendant extending from San Francisco to Tres Pinos, and from Goshen to the Needles, was definitely located and constructed, and maps of definite location and construction thereof filed with and approved by the secretary of the interior prior to December, 1884; and prior to the last-mentioned date commissioners appointed by the President of the United States examined the same and duly reported to the President that all of the said railroad had been completed in a good, substantial, and workmanlike manner, in all respects as required by the said acts; and prior to the last-mentioned date the president duly accepted and approved all of said reports except the report upon that portion of the said railroad which extends from Mojave to the Needles.

On July 27, 1866, all the lands described in subdivision I of the said bill lying within thirty miles of the line of road shown on the said map filed January 3, 1867, were vacant and unappropriated public lands, not mineral, to which the United States had full title, not reserved, sold, granted, or otherwise appropriated, and free from preemption or other claims or rights; and all of the said

lands have ever since so remained, excepting only as they have been affected by the acts of Congress, and the grants, rights, title, and interests of the defendants herein set forth.

And the defendants say that, prior to the time of the filing of said plat, many of the odd sections within twenty miles of, and many of the odd sections between twenty and thirty miles from the railroad line shown on the said plat filed January 3, 1867, were granted, sold, reserved, occupied by homestead settlers, pre-empted and otherwise disposed of; and at the time the said plat was filed all the odd-numbered sections lying within thirty miles of the said railroad line, to which the United States had full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights were insufficient to make the quantity granted by the said act to the defendant Southern Pacific Railroad Company, and all the lands described in subdivision I of the said bill, lying within thirty miles of the railroad line shown on the said plat filed January 3, 1867, were granted to the defendant Southern Pacific Railroad Company by the said act of July 27, 1866.

3d. The defendants admit that by the act approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," Congress incorporated the Texas Pacific Railroad Company, and said act contained provisions respecting a grant of lands, as by reference thereto will fully appear; but they say that such grant was made upon the conditions and limitations

specified in said act, and that the said company did not definitely fix, designate, locate, nor construct any railroad in the State of California, nor acquire any grant of lands in said State; and they expressly deny that any grant to the Texas Pacific Railroad Company, or any successor thereof under said act, ever attached to any specific lands in the State of California.

4th. The defendants deny that the Texas Pacific Railroad Company accepted the grant, or the terms or conditions of the said act of March 3, 1871, at any time.

And they deny that the Texas Pacific Railroad Company ever did designate upon a plat or map the whole or any part within the State of California, of its general route under said act, from Marshall, Texas, by way of the points and places named in the said act, or any points or places, to San Diego, California, or to Ship's Channel in the bay of San Diego; or that the said company did, on or about October 15, 1871, or at any time, file such plat in the office of the commissioner of the general landoffice; or that such or any plat or map filed by the said company was approved by the secretary of the interior at any time, or ever treated by said officer as a sufficient or valid location of a general route; or that upon the filing of such or any map in the office of or with the secretary of the interior, by or for or on behalf of the said company, the United States withdrew from market or reserved any lands in the State of California; and they deny that the map referred to in subdivision IV of the said bill as "Plaintiffs' Exhibit No. 10," in case No. 587, designates any line of route for or by the Texas Pacific Railroad Com-

pany, or that that map was filed for or by said company in the office of the commissioner of the general landoffice at any time.

The defendants say that the map referred to as "Plaintiffs' Exhibit No. 10" in case No. 587 purports to be a copy of a map filed in the office of the commissioner of the general landoffice; and they admit that the map of which it purports to be a copy was filed in the said office on or about October 15, 1871. But the defendants deny that the Texas Pacific Railroad Company ever designated or adopted the line of route shown upon it; or that the said map was made or filed by or for, or with the knowledge or consent of, the said company.

And the defendants say that the line shown upon said map was drawn without any survey having been made therefor, and without knowledge of the country through and over which the same is represented as passing; and that the said map is but a fancied sketch, which shows a line along which it is, and has always been impossible to construct a railroad, because of the topography and natural features of the country. That the said act did not authorize the Texas Pacific Railroad Company to construct a railroad nor to designate a route, by plat or otherwise, along the line shown upon the said map.

5th. The defendants deny that, prior to April 4, 1874, or at any time, the Texas Pacific Railroad Company (then known as the Texas and Pacific Railway Company, or by any other name) surveyed, located upon the ground, or definitely fixed any line of railroad from Marshall, Texas, to San Diego, or any line of railroad within, or partly

within, the State of California; and they deny that any of the lands described in subdivision I of the said bill fall within either the primary or indemnity limits of any line of railroad of the said Texas Pacific Railroad Company or any line of railroad ever definitely fixed by or on behalf of said company; and they deny that the said company, in 1874, or at any time, held legal or other title to any of said lands, or that the said company was ever entitled to select any of said lands as indemnity lands, or that the said company ever had a present or prospective right to any of said lands, within the meaning of section 23 of the said act of March 3, 1871, or at all; and they deny that any of said lands were ever, by authority of the United States or otherwise, withdrawn from market or reserved for the benefit of the Texas Pacific Railroad Company, or ever withdrawn or reserved otherwise than for the Southern Pacific Railroad Company, as hereinafter set forth.

The defendants deny that none of the said lands were granted to the Southern Pacific Railroad Company, or operated upon by section 23 of the said act of March 3, 1871, or by any other act of Congress or intended to be granted, to the said company by Congress, or to be operated upon by the provisions of the said section; and say that all of said lands were granted, and intended to be granted, to the defendant Southern Pacific Railroad Company—a part thereof by the said act of July 27, 1866, and the remainder thereof by the said act of March 3, 1871.

6th. The defendants admit and say that the defendant Southern Pacific Railroad Company, prior to January 31, 1878, and within the times prescribed for the various por-

tions thereof, respectively, located, constructed, and equipped the line of railroad and telegraph authorized by section 23 of the said act of March 3, 1871, in all respects as required by that act; that the said railroad and telegraph have been duly accepted and approved by commissioners appointed by the President of the United States; that the line of said railroad and telegraph extending through the lands in suit, and the twenty miles limits and thirty miles limits of the land grant made by the said act of March 3, 1871, to aid in constructing the same, are correctly shown upon the maps referred to in subdivision VI of the said bill.

The defendants also admit and say that the said act of March 3, 1871, authorized the defendant Southern Pacific Railroad Company to construct its line of railroad to the Texas Pacific Railroad at or near the Colorado river; but deny that the said act required the said defendant to make any connection with the said Texas Pacific Railroad, and say that the Texas Pacific Railroad was never constructed to any point at or near the Colorado river.

And herein the defendants say that to aid in the construction of its said railroad, the said act of March 3, 1871, made a grant to the defendant Southern Pacific Railroad Company of every alternate section of public land, not mineral, designated by add numbers, to the amount of ten alternate sections of land per mile on each side of said railroad, whenever on the line thereof the United States should have full title, not reserved, sold, granted, or otherwise appropriated and free from pre-emption or other claims or rights at the time the line of said road is desig-

nated by a plat thereof filed in the office of the commissioner of the general landoffice; and the said act further provided, that whenever prior to said time any of the said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the secretary of the interior, in alternate sections, designated by odd numbers, not more than ten miles beyond the limits of the first mentioned sections. And the said act also granted to said defendant a right of way to the extent of one hundred feet in width on each side of said railroad, including all necessary grounds for station buildings, workshops, depots, machine-shops, switches, sidetracks, turntables and water stations. The said act, as printed in the 16th Statute at Large, at page 573 and following, is referred to and made part of this answer.

The said defendant duly accepted the terms, conditions, and impositions of the said act, fixed the general route of the entire line of the said railroad, and on April 3, 1871, the line thereof was designated by a plat filed on that day in the office of the commissioner of the general landoffice. The said general route, plat, and designation of lines were duly approved and accepted by the commissioner of the general landoffice and secretary of the interior; and on April 21, 1871, the commissioner of the general landoffice, by direction of the secretary of the interior, withdrew the odd-numbered sections of land within thirty miles of the railroad line shown upon the said plat. All of such lands have ever since remained so withdrawn by virtue of the

said withdrawal, and by the provisions of section 6 of the said act of July 27, 1866.

Thereafter, and prior to January 31, 1878, the said company definitely located and constructed the entire railroad provided for in the said act of March 3, 1871, along the line designated upon the said plat filed April 3, 1871; and maps of the definite location and construction of the whole thereof were filed with and approved by the secretary of the interior prior to January 31, 1878. Prior to the last-mentioned date commissioners appointed by the President of the United States duly examined the entire line of said railroad, reported to the President that the same had been constructed in a good, substantial, and workmanlike manner, in all respects as required by the said act, and the President duly accepted and approved all of said reports prior to the date last mentioned.

The defendants say that none of the lands described in subdivision I of the said bill are, or ever were, mineral lands; but that many of the odd sections within twenty miles of, and between twenty and thirty miles from, the railroad line shown on the said plat filed April 3, 1871, and so constructed as aforesaid, were granted, sold, reserved, occupied by homestead settlers, pre-empted, and otherwise disposed of by the United States, prior to March 3, 1871; and on April 3, 1871, when the said plat was filed, all the odd-numbered sections lying within thirty miles of the said railroad line, to which the United States had full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights, were insufficient to

make the quantity granted by the said act to the defendant Southern Pacific Railroad Company; and that all the lands described in subdivision I of the said bill, not granted to the defendant Southern Pacific Railroad Company by the act of July 27, 1866, were granted to it by the said act of March 3, 1871.

7th. The defendants say it is true, as alleged in subdivision VII of the said bill, that the Texas Pacific Railroad Company did not construct any railroad or telegraph line in whole or in part in the State of California or territory of Arizona, but failed and refused so to do; and that on February 28, 1885, Congress passed an act wherein it was provided that all lands granted to the Texas Pacific Railroad Company, under act of Congress of March 3, 1871, hereinbefore referred to, and the acts amendatory thereof and supplemental thereto, be, and they were declared to be, forfeited and restored to the public domain, and made subject to disposal under the general laws of the United States, as though said grant had never been made.

But the defendants deny that any of the said lands described in the said bill were ever granted to the Texas Pacific Railroad Company, or that rights in or to any of said lands were ever conferred upon the said company; or that any of said lands were forfeited or resumed to the United States or restored to the public domain by the said act of February 28, 1885.

8th. The defendants deny that prior to March 3, 1871, a large part of any of the sections of land designated by odd numbers within the twenty miles or any primary limits of any grant to the Texas Pacific Railroad Company

had been sold, reserved, or otherwise appropriated, or that pre-emption or homestead claims had attached to any of such lands; and they deny that any sections of land in California were ever granted to the said company, or that any grant to the said company ever had twenty miles or primary limits in the State of California.

9th. The defendants deny that the said or any line of the Texas Pacific Railroad Company was located so near the boundary line of Mexico that there were not sufficient lands in California within any granted limits to satisfy any such grant; and herein they deny that the said company ever did locate a line anywhere in California.

And the defendants deny that by reason of the facts alleged in said bill, or by reason of any facts, the Texas Pacific Railroad Company, upon the filing and approval of any map filed in the year 1871, or filed at any other time, or upon definitely fixing any line, became invested with any present or prospective right to all or any odd-numbered sections of land in California, within forty miles of any line of route, or on both sides, or either side thereof. And herein the defendants deny that the Texas Pacific Railroad Company filed any map in the year 1871, or at any time, or that the said company definitely fixed any line in the State of California; or that the said company ever became invested with a present or prospective right to any land in California; or that the said company ever had a line or lines of route in California.

10th. The defendants deny that the northwest quarter of section 17, township 7 south, range 3 east, San Bernardino base and meridian, was public land in July, 1887, or

subject to homestead settlement, filing, or entry at that time.

They deny that in July, 1887, one Joseph Crawford was a citizen of the United States, or that he then settled upon the northwest quarter of the said section 17, or that he claimed the said land under the homestead laws of the United States, or that he was qualified to enter said land as a homestead. And they deny that the laws of the United States required the said Crawford, or any other person, to enter the said land at the United States land-office, at any time, or that the said Crawford ever had a right to or could have entered the same at all.

The defendants admit that the defendant Southern Pacific Railroad Company selected (but deny that it pretended to select) the said land as indemnity land granted to it by the said act of March 3, 1871. And they say that the said company did duly select the same under the direction of the secretary of the interior in the manner and form and in all respects as required by law and the rules and regulations of the general landoffice of the United States, and duly paid the fees and costs of selecting, surveying, and patenting the same; and that on October 3, 1887, the register and receiver at the United States land-office at Los Angeles, acting under the direction of the secretary of the interior, duly approved and certified the said selection, and the same thereupon became, and has ever since remained, a final location of the said land.

But the defendants deny that the said Crawford was prevented from entering the said land or obtaining the legal title thereto, under the homestead laws of the

United States, by the said selection of the Southern Pacific Railroad Company; or that he could have entered or procured any title to the said land, even had the said selection not been made. And they deny that the said Crawford had no notice of such selection of said lands or the approval thereof.

11th. The defendants deny that the said Crawford ever settled or resided on, or held, occupied, or cultivated the land described in subdivision X of the said bill; or that he claimed the same as a homestead, or complied with the requirements of the homestead laws of the United States; or that the said land was ever illegally, or erroneously, or inadvertently certified to the defendant railroad company; or that any entry of the said land by the said Crawford was ever rejected, for that the said land had been theretofore illegally, erroneously, or inadvertently certified to the defendant railroad company.

12th. The defendants other than the Southern Pacific Company and the Colorado River Irrigation Company admit that they claim some interest in all the lands described in subdivision I of the said bill, under and by virtue of the said act of March 3, 1871, but deny that they do not claim some interest in the same otherwise. The Colorado River Irrigation Company admits that it claims an interest in a portion of such lands, under the said act of March 3, 1871.

They deny that the nature and extent of their claim to the said land is unknown to the plaintiffs, but say that the nature and extent of such claim is well known to the plaintiffs.

They deny that they have no legal or equitable title to or interest in the said lands; and say that the defendants other than the Southern Pacific Company and the Colorado River Irrigation Company have an interest in all of the said land, as herein shown; and that the defendant, the Colorado River Irrigation Company, has an interest in a portion of said lands.

They deny that the plaintiffs have any right to or could sell or otherwise dispose of any of the said lands, under the laws of the United States; or that the said or any adverse claims of the defendants unlawfully or unjustly hinder or embarrass the plaintiffs, or prevent the department of the interior from selling or disposing of the said lands under the laws of the United States.

13th. The defendants deny that they are unlawfully removing from any of said lands, wood, timber, minerals, or other valuable deposits, or are unlawfully threatening to chop down growing trees on said land, or to remove other minerals or other valuable deposits thereon; or that unless enjoined they will do so, to the great or irreparable, or any, injury of the plaintiffs.

14th. The defendants admit and say that the amount in controversy in this suit, exclusive of interest and costs, exceeds the sum of five thousand dollars; and the defendants say they claim all the lands in controversy.

15th. The defendants say that on or about April 1, 1875, the defendant Southern Pacific Railroad Company duly made, executed, and delivered to the defendants, D. O. Mills and one Lloyd Tevis, as trustees, a mortgage bearing date that day, conveying to them all the lands de-

scribed in subdivision I of the said bill; which mortgage was given to secure the payment of negotiable mortgage bonds to be issued and sold by the said company. That prior to October 1, 1888, the said company duly issued, sold, and delivered negotiable mortgage bonds secured by the said mortgage of the face value of $39,285,000, to bona fide purchasers thereof, without notice of any claim or demand of the United States to, or respecting any of the said lands; and that each and all of said purchasers paid the full value for the said bonds, and all of the said bonds are outstanding and unpaid in the hands of bona fide purchasers.

That Gerrit L. Lansing, named in the said bill as a defendant, was duly substituted for the said Lloyd Tevis, as a trustee, under the said mortgage. Thereafter the said Gerrit L. Lansing died, and on March 21, 1896, one Homer S. King was duly substituted for the said Gerrit L. Lansing, as a trustee, under the said mortgage.

The said mortgage was duly recorded during the year 1875 in each and every county in which any of the lands described in subdivision I of the said bill are situated; and it was well known to the plaintiffs when this suit was brought.

16th. Further answering the defendants say that the defendant Central Trust Company of New York is, and on August 25, 1888, was, a corporation duly organized and existing under and in virtue of the laws of the State of New York. That on or about the last-mentioned date the defendant Southern Pacific Railroad Company made, executed, and delivered to the said Central Trust Com-

pany a further mortgage or deed of trust covering, besides other properties, all the lands described in subdivision I of the said bill, to secure the payment of negotiable mortgage bonds to be issued and sold by the mortgagor. That prior to the year 1893 the said Southern Pacific Railroad Company duly issued, sold, and delivered negotiable bonds secured by the said mortgage or deed of trust, of the face value of $11,375,000, to bona fide purchasers thereof, without notice of any claim or demand of the United States to or respecting any of the said lands; and that each and all of the said purchasers paid the full face value of the said bonds, and all of the said bonds are outstanding and unpaid in the hands of bona fide purchasers.

That on or about September 15, 1893, the defendant Southern Pacific Railroad Company made, executed, and delivered to the said Central Trust Company a further mortgage or deed of trust covering, besides other properties, all the lands described in subdivision I of the said bill, to secure the payment of negotiable mortgage bonds to be issued and sold by the mortgagor. That thereafter, and prior to the commencement of any of the suits consolidated herein, the said Southern Pacific Railroad Company duly issued, sold, and delivered negotiable bonds secured by the last-mentioned mortgage or deed of trust, of the face value of $16,888,000, to bona fide purchasers thereof, without notice of any claim or demand of the United States to, or respecting, any of the said lands; and that each and all of the said purchasers paid the full value of the said bonds, and all of the said bonds are outstanding and unpaid in the hands of bona fide purchasers.

Each of the said mortgages or deeds of trust was duly recorded in each and every county in which any of the lands described in subdivision I of the said bill are situated, prior to the commencement of any of the suits consolidated herein, and each thereof was well known to the plaintiffs when this suit was brought.

17th. The defendants say that the defendant Southern Pacific Company is a corporation duly organized and existing under the laws of the State of Kentucky; but that the said company has no claim or interest in any of the lands described in subdivision I of the said bill.

18th. The defendants say that the defendant Colorado River Irrigation Company is, and prior to December 8, 1893, was, a corporation duly organized and existing under and by virtue of the laws of the State of Colorado. That on December 8, 1893, the Colorado River Irrigation Company, without notice or knowledge that the plaintiffs had or claimed any right, title, or interest in or to any of the lands described in subdivision I of the said bill, purchased from the defendant Southern Pacific Railroad Company, for a valuable consideration, all of such lands as are bounded on the south by the international line separating California from Mexico, on the north by the railroad station at Indio, on the east and west by the east and west branches of the canals of the Colorado River Irrigation Company.

The said defendant Colorado River Irrigation Company is a bona fide purchaser of the said lands, for a valuable consideration, and claims to be the owner thereof by rea-

son of such purchase, and has expended more than $150 000 in improving the same.

19th. Further answering the defendants say that prior to the commencement of any of the suits consolidated herein, the defendant Southern Pacific Railroad Company duly selected all the lands described in subdivision I of the said bill, under the direction of the secretary of the interior, and paid to the United States all charges demanded by it for fees, costs of survey, and costs of patenting the same, amounting in all to about $40,000. That the United States have appropriated and retained all of said money, and have not returned, nor offered to return, any part of the same.

20th. And the defendants say that prior to the commencement of any of the suits consolidated herein, the United States duly issued and delivered to the defendant Southern Pacific Railroad Company patents conveying the legal title to it for 342,849.07 acres of land described in subdivision I of the said bill; all of which patents issued in virtue of the acts of July 27, 1866, and March 3, 1871, hereinbefore mentioned; and the said company was never asked, nor was any demand made upon the said company, to reconvey the same, or any portion thereof, to the United States.

That of the lands so patented to it the defendant Southern Pacific Railroad Company, by 1,251 several sales to 998 different persons, sold 234,173.04 acres. Each of such sales was made prior to the commencement of any of the suits consolidated herein to a bona fide purchaser, who purchased in good faith, for a valuable consideration

paid, without notice or knowledge that the United States had, or claimed to have, any right, title or interest whatsoever in or to the lands so purchased, or any part thereof; and each of said purchasers believed, sincerely and in good faith, that in making such purchase he was acquiring the perfect and true title to the lands so purchased. All of the lands so sold are, at the time this suit was commenced and on March 2, 1896, were held by bona fide purchasers thereof.

The defendants further say, upon information and belief, that a large number of the deeds of conveyance issued by the defendant Southern Pacific Railroad Company to the said purchasers, in pursuance of the said sales, were duly recorded in the records of the county in which the lands so conveyed are respectively situated, prior to the commencement of any of the suits consolidated herein; and that at all the times when the said suits were commenced the plaintiffs had full knowledge of all of the said patents and of all of the said recorded deeds.

The full particulars of the said sales, with the members and dates of the said patents conveying the lands thereof to the defendant Southern Pacific Railroad Company, are set forth in "Exhibit A," filed with and made part of this answer.

21st. And the defendants say that, prior to the commencement of any of the suits consolidated herein, the defendant Southern Pacific Railroad Company sold and contracted to sell 551,311.75 acres of the lands described in subdivision I of the said bill, other and in addition to

the lands set forth in the twentieth subdivision of this answer. Each of such sales was made to a bona fide purchaser, who purchased in good faith, for a valuable consideration, without notice or knowledge that the United States had, or claimed to have, any right, title, or interest whatsoever in or to the lands so purchased, or any part thereof; and each of said purchasers believed, sincerely and in good faith, that in making such purchase he was acquiring the perfect and true title to the lands so purchased; and all of the lands so sold are held by bona fide purchasers. Upon their information and belief the defendants say that each of the said persons who purchased or contracted to purchase any of the said land prior to March 3, 1887, or who held any of the said land on March 3, 1887, under contracts or purchases thereof made prior to that date, was and is a citizen of the United States.

The defendants further say, upon information and belief, that a large number of the deeds of conveyance and contracts issued by the defendant Southern Pacific Railroad Company to the said purchasers in pursuance of the said sales were duly recorded in the records of the county in which the lands subject thereof are respectively situated prior to the commencement of any of the suits consolidated herein; and that at all the times when the said suits were commenced the plaintiffs had full knowledge of all of the said recorded deeds and contracts.

Full particulars of all the said sales, contracts, and conveyances are shown upon "Exhibit A," filed with and made part of this answer.

22d. And the defendants say that the defendant Southern Pacific Railroad Company is a corporation, as aforesaid, and a resident and an inhabitant of the Northern District of California; the defendant D. O. Mills is a resident and inhabitant of the Southern District of New York; the defendant Gerrit L. Lansing, during his lifetime, was a resident and inhabitant of the Northern District of California; the Central Trust Company of New York is a corporation as aforesaid, and a resident and an inhabitant of the Southern District of New York; the defendant Southern Pacific Company is a corporation as aforesaid, and a resident and an inhabitant of the District of Kentucky; the defendant Colorado River Irrigation Company is a corporation as aforesaid, and a resident and an inhabitant of the District of Colorado; and at all the times when these suits were brought none of the defendants were, nor is any one of them now, a resident or inhabitant of the Southern District of California.

And the defendants deny all and all manner of matter, cause, or thing in the plaintiffs' said bill contained, material or necessary for them to make answer to, and not herein well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of any of the defendants. All of which matters and things these defendants are ready and willing to aver, maintain and prove as this honorable Court may direct; and the defendants pray to be hence dismissed with their

reasonable costs and charges in this behalf most wrongfully sustained.

WM. SINGER, JR.,

Attorney for Defendants Southern Pacific Railroad Co., D. O. Mills, Trustee, and Southern Pacific Co.

PAGE, McCUTCHEN & EELLS,

Attorneys for Defendant Central Trust Co. of New York.

W. H. H. HART,

Attorney for Defendant Colorado River Irrigation Company.

WM. F. HERRIN,

Counsel for Defendants Southern Pacific Railroad Co., D. O. Mills, trustee, and Southern Pacific Co.

BUTLER, NOTMAN, JOLINE & MYNDERSE,

Counsel for Defendant Central Trust Co. of New York.

[Endorsed]: Consolidated No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. The United States of America vs. Southern Pacific Railroad Co. et als. Answer of Defendants. Filed July 23, 1896. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., rooms 61-62 Union Trust Building, San Francisco, Cal., attorney for S. P. R. R. Co., D. O. Mills, and S. P. Co.

Exhibit "A."

(Attached to Answer.)

Contract No. 3,892.

Issued Aug. 26, 1884, to William O. Taylor, for the south half of southwest quarter of section 5; north half of section 9; southwest quarter of section 11; all of section 19; northeast quarter of section 35, township 1 north, range 1 east; all of section 13, township 1 north, range 1 west, S. B. M., 2,000 acres. Agreed purchase price, $10,000.00. Purchase price paid, $10,000.00; interest paid, none. Deed issued Feb. 20, 1894, to Vincent A. Taylor. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 2,000 acres of land described above.

Contract No. 3,891.

Issued Aug. 26, 1884, to William O. Taylor, for all of fractional section 7; south half of section 9; all of sections 13, 15, 21 and 23; north half of section 25; north half of section 27, township 1 north, range 1 east, S. B. M., 4,162.10 acres. Agreed purchase price, $20,810.50. Purchase price paid, $20,810.50; interest paid, $———. Deed issued Oct. 30, 1894, to William O. Taylor. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 4,162.10 acres of land described above.

Contract No. 3,815.

Issued July 19, 1884, to Walter S. Hobart, for all of section 17, township 1 north, range 1 east, S. B. M., 640

acres. Agreed purchase price, $3,200.00. Purchase price paid, $3,200.00; interest paid, $———. Deed issued July 21, 1884, to Walter S. Hobart. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 640 acres of land described above.

Contract No. 1,124.

Issued Aug. 9, 1881, to Elias J. Baldwin, for the southeast quarter and east half of southwest quarter of section 11; north half of northeast quarter, south half of northwest quarter; northwest quarter of southwest quarter of section 13, township 2 north, range 1 east; south half of southeast quarter of section 7, township 2 north, range 2 east, S. B. M., 520 acres. Agreed purchase price, $1,300.00. Purchase price paid, $1,300.00; interest paid, $41.16. Deed issued Aug. 9, 1881, to Elias J. Baldwin. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 520 acres of land described above.

Contract No. 8,401.

Issued Sept. 26, 1887, to H. S. Dixon, for the south half of the northeast quarter; north half of northwest quarter; northeast quarter of southwest quarter; south half of southwest quarter; southeast quarter of section 13, township 2 north, range 1 east, S. B. M., 440 acres. Agreed purchase price, $1,500.00. Purchase price paid, $1,500.00; interest paid, $432.83. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 440 acres of land described above.

Contract No. 1,049.

Issued April 6, 1881, to J. S. Slauson, for the south half of the northeast quarter, and the southwest quarter of section 13, township 2 north, range 1 west; southeast quarter of the northwest quarter and the south half of the southwest quarter of section 15; south half of the northeast quarter; east half of the northwest quarter; southwest quarter of the northwest quarter; north half of the southwest quarter; southwest quarter of the southwest quarter of section 17, township 2 north, range 1 east; fractional north half of section 19, township 2 north, range 1 east, S. B. M., 997.29 acres. Agreed purchase price, $2,493.23. Purchase price paid, $2,493.23; interest paid, $279.24. Deed issued Aug. 2, 1883, to J. S. Slauson. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 997.23 acres of land described above.

Contract No. 8,400.

Issued September 26, 1887, to H. S. Dixon, for the southwest quarter of the northwest quarter; south half of the southeast quarter; north half of the southwest quarter of section 15, township 2 north, range 1 east, S. B. M., 200 acres. Agreed purchase price, $500.00. Purchase price paid, $500.00; interest paid, $144.27. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 200 acres of land described above.

Contract No. 8,399.

Issued September 26, 1887, to H. S. Dixon, for the north half of the northeast quarter; southeast quarter of the southwest quarter; southeast quarter of section 17, township 2 north, range 1 east, S. B. M., 280 acres. Agreed purchase price, $1,400.00. Purchase price paid, $1,400.00; interest paid, $403.97. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 280 acres of land described above.

Contract No. 9,414.

Issued March 2, 1888, to Bear Valley Land and Water Company, for the northwest quarter of the northwest quarter of section 17, township 2 north, range 1 east, S. B. M., 40 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interst paid, $———. Deed issued March 26, 1888, to Bear Valley Land and Water Company. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 40 acres of land described above.

Contract No. 10,016.

Issued January 17, 1889, to J. S. Edwards, J. S. Black, and W. N. Chamblin, for the northwest quarter of the southwest quarter of section 19, township 2 north, range 1 east, S. B. M., 3,932 acres. Agreed purchase price, $196.60. Purchase price paid, $196.60; interest paid, $37.47. Deed issued Jan. 17, 1889, to J. S. Edwards, J. S. Black,

and W. N. Chamblin. Present owner of contract, ——— ———. Patent No. 3. Issued Dec. 2, 1880, for 39.32 acres of land described above.

Contract No. 8,383.

Issued September 20, 1887, to H. S. Dixon, for the northeast quarter of section 21, township 2 north, range 1 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $231.59. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 8,384.

Issued September 20, 1887, to H. S. Dixon, for the northwest quarter of section 21, township 2 north, range 1 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $231.59. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 8,385.

Issued September 20, 1887, to H. S. Dixon, for the southeast quarter of section 21, township 2 north, range 1 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $231.59. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 8,386.

Issued September 20, 1887, to H. S. Dixon, for the southwest quarter of section 21, township 2 north, range 1 east, S. B. M., 160 acres. Agreed purchase price, $800,-00. Purchase price paid, $800.00; interest paid, $231.59. Deed issued Nov. 25, 1892, to Bear Valley Irrigation Company. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 8,490.

Issued October 13, 1887, to Albon N. Towne, for the east half of section 3, township 1 north, range 2 west, S. B. M., 320 acres. Agreed purchase price, $960.00. Purchase price paid, $192.00; interest paid, $268.80. Deed issued ——— to ————. Present owner of contract, Estate of A. N. Towne, deceased. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 7,703.

Issued July 1, 1887, to P. J. Stockman, for the north half of section 5, township 1 north, range 2 west; the north half of the southwest quarter, the north half of the southeast quarter, the southwest quarter of the southeast quarter of section 31, township 2 north, range 2 west, S. B. M., 922.64 acres. Agreed purchase price, $5,659.06. Purchase price paid, $5,659.06; interest paid, $975.43. Deed issued Aug. 12, 1890, to C. D. Danaher and James E. Danaher. Present owner of contract, ————. Patent No. 9. Issued Jan. 9, 1885, for 922.64 acres of land described above.

Contract No. 10,395.

Issued July 25, 1890, to C. D. Danaher and J. E. Danaher, for the north half of the northeast quarter and the northwest quarter of section 9, township 1 north, range 2 west, S. B. M. 240 acres. Agreed purchase price, $2,400. Purchase price paid, $2,400; interest paid, $———. Deed issued Dec. 21, 1894, to C. D. Danaher and J. E. Danaher. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 240 acres of land described above.

Contract No. 10,761.

Issued May 27, 1891, to Highlands Lumber Company, for all ——— 1, township 1 north, range 3 west, S. B. M. 640 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200, interest paid, $———. Deed issued ————————, to ————————. Present owner of contract, Highlands Lumber Company. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 7,921.

Issued Aug. 1, 1887, to A. B. Chapman and B. F. Coulter, for all of section 7, township 1 north, range 3 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $320; interest paid, $806.40. Deed issued ————————, to ————————. Present owner of contract, Arrowhead Hot Springs Hotel Company. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 3,022.

Issued Jan. 11, 1884, to Jacob Huff, for the southeast quarter of section 19, township 1 north, range 3 west, S. B. M., 150.84 acres. Agreed purchase price, $750. Purchase price paid, $750; interest paid, $56.60. Deed issued May 19, 1885, to Frank Cheney. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 150.84 acres of land described above.

Contract No. 3,021.

Issued Jan. 11, 1884, to Zanoni Zimmerman, for lots 1, 2 and 3 of the southwest quarter of section 19, township 1 north, range 3 west, S. B. M., 65.17 acres. Agreed purchase price, $300. Purchase price paid, $300; interest paid, $———. Deed issued Sept. 24, 1884, to Zanoni Zimmerman. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 65.17 acres of land described above.

Contract No. 3,023.

Issued Jan. 11, 1884, to Gustav Bohn, for the southwest quarter of section 27, township 1 north, range 3 west, S. B. M., 160 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $103.30. Deed issued Feb. 24, 1887, to Gustav Bohn. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 11,352.

Issued Sept. 20, 1894, to William H. Randall, for the northwest quarter of section 27, township 1 north, range

3 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $89.60. Deed issued ————————, to ————————. Present owner of contract, William H. Randall. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 3,096.

Issued Jan. 26, 1884, to William H. Randall, for the north half of the northeast quarter of section 29, township 1 north, range 3 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $51.35. Deed issued ————————, to ————————. Present owner of contract, William H. Randall. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,024.

Issued Jan. 11, 1884, to Francis M. Haws, for the southeast quarter of the northeast quarter, the east half of the southeast quarter of section 29, township 1 north, range 3 west, S. B. M., 120 acres. Agreed purchase price, $1,520. Purchase price paid, $1,520; interest paid, $94.59. Deed issued March 9, 1885, to Francis M. Haws. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 6,185.

Issued Dec. 30, 1886, to W. W. Terry, for the southwest quarter of the northeast quarter and the south half of the northwest quarter of section 29, township 1 north, range 3 west, S. B. M., 120 acres. Agreed purchase price, $1,000.

Purchase price paid, $1,000; interest paid, $71.39. Deed issued April 14, 1888, to W. W. Terry. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 3,097.

Issued Jan. 26, 1884, to William H. Randall, for the north half of the northwest quarter of section 29, township 1 north, range 3 west, S. B. M., 80 acres. Agreed purchase price, $260. Purchase price paid, $260; interest paid, $ .56. Deed issued Jan. 7, 1887, to Thomas K. Hale, P. C. Gibbs, A. S. Hawley, Andrew Buntom and W. H. Randall, trustees of the Highland Vineyard Association. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,028.

Issued Jan. 12, 1884, to William H. Randall, for the northwest quarter of the southeast quarter, the north half of the southwest quarter of section 29, township 1 north, range 3 west, S. B. M., 120 acres. Agreed purchase price, $1,440. Purchase price paid, $1,440; interest paid, $238.28. Deed issued Jan. 7, 1887, to P. C. Gibbs, A. S. Hawley, Andrew Buntom, W. H. Randall and Thomas K. Hale, trustees of the Highland Vineyard Association. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 3,025.

Issued Jan. 11, 1884, to E. P. Clyde, for the southwest quarter of the southeast quarter, the south half of the

southwest quarter of section 29, township 1 north, range 3 west, S. B. M., 120 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $40.65. Deed issued Sept. 16, 1884, to E. P. Clyde. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 2,964.

Issued Dec. 17, 1883, to David Seeley, for the northwest quarter of the northeast quarter, the east half of the northeast quarter of section 33, township 1 north, range 3 west, S. B. M., 120 acres. Agreed purchase price, $1,507.50. Purchase price paid, $1,507.50; interest paid, $268.97. Deed issued March 12, 1887, to David Seeley. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 3,018.

Issued Jan. 10, 1884, to W. T. Noyes, for the southwest quarter of the northeast quarter of section 33, township 1 north, range 3 west, S. B. M., 40 acres. Agreed purchase price, $712.60. Purchase price paid, $712.60; interest paid, $155.13. Deed issued Dec. 3, 1887, to W. T. Noyes. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 2,928.

Issued Dec. 10, 1883, to W. P. Rogers, for the northeast quarter of the northwest quarter of section 33, township 1 north, range 3 west, S. B. M., 40 acres. Agreed purchase price, $1,000. Purchase price paid, $1,000; interest paid,

$——. Deed issued July 7, 1884, to W. P. Rogers. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 3,011.

Issued Jan. 3, 1884, to Wm. S. Lapraix, Charles H. Tyler and Joseph B. Tyler, for the southeast quarter of the northwest quarter, the west half of the southeast quarter, the east half of the southwest quarter of section 33, township 1 north, range 3 west, S. B. M., 200 acres. Agreed purchase price, $3,280. Purchase price paid, $3,280; interest paid, $——. Deed issued April 25, 1884, to Wm. S. Lapraix, Charles H. Tyler and Joseph B. Tyler. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 200 acres of land described above.

Contract No. 2,980.

Issued Dec. 27, 1883, to Warren R. Ingham, for the west half of the northwest quarter, the northwest quarter of the southwest quarter of section 33, township 1 north, range 3 west, S. B. M., 120 acres. Agreed purchase price, $3,000. Purchase price paid, $3,000; interest paid, $——. Deed issued April 25, 1884, to Warren R. Ingham. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 2,963.

Issued Dec. 17, 1883, to David R. Seeley, for the east half of the southeast quarter of section 33, township 1 north, range 3 west, S. B. M., 80 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid,

$68.60. Deed issued Dec. 29, 1885, to David R. Seeley. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 2,962.

Issued Dec. 17, 1883, to David R. Seeley, for the southwest quarter of the southwest quarter of section 33, township 1 north, range 3 west, S. B. M., 40 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $139.74. Deed issued Feb. 5, 1887, to David R. Seeley. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 6,445.

Issued March 8, 1887, to J. S. Edwards and W. N. Chamblin, for the northeast quarter of section 35, township 1 north, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $107.65. Deed issued Dec. 29, 1891, to W. N. Chamblin. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,444.

Issued March 8, 1887, to W. N. Chamblin and J. S. Edwards, for the northwest quarter and the south half of section 35, township 1 north, range 3 west, S. B. M., 480 acres. Agreed purchase price, $6,000. Purchase price paid, $6,000; interest paid, $1,614.66. Deed issued Dec. 29, 1891, to W. N. Chamblin. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 480 acres of land described above.

Contract No. 2,542.

Issued Nov. 2, 1882, to R. W. Waterman, for the east half of the northeast quarter of section 3, township 1 north, range 4 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $——. Quit claim deed issued Nov. 10, 1882, to R. W. Waterman. Present owner of contract, ————. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 2,211.

Issued March 23, 1882, to R. W. Waterman, for the northeast quarter of the northeast quarter, the west half of the northeast quarter, the west half of the southeast quarter, and the west half of section 11, township 1 north, range 4 west, S. B. M., 520 acres. Agreed purchase price, $1,560. Purchase price paid, $1,560; interest paid, $——. Quit claim deed issued April 3, 1882, to R. W. Waterman. Present owner of contract, ————. Patent No. 9. Issued Jan. 9, 1885, for 440 acres of land described above.

Contract No. 3,026.

Issued Jan 11, 1884, to Aaron Harrison, for the southwest quarter of section 13, township 1 north, range 4 west, S. B. M., 113.54 acres. Agreed purchase price, $1,135.40. Purchase price paid, $1,135.40; interest paid, $194.26. Deed issued Feb. 24, 1887, to Aaron Harrison. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 113.54 acres of land described above.

Contract No. 6,638.

Issued March 30, 1887, to Samuel Merrill, for the southeast quarter of the southwest quarter, the west half of the southwest quarter, and lots 1 and 2 of section 17, township 1 north, range 5 west, S. B. M., 170.39 acres. Agreed purchase price, $851.95. Purchase price paid, $170.39; interest paid, $95.22. Deed issued ————, to ———. Present owner of contract, Semi Tropic Land and Water Company. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,639.

Issued March 30, 1887, to Samuel Merrill, for lots 3 and 4 of the southeast quarter of section 17, township 1 north, range 5 west, S. B. M., 51.18 acres. Agreed purchase price, $255.90. Purchase price paid, $51.18; interest paid, $28.66. Deed issued ————, to ————. Present owner of contract, Semi Tropic Land and Water Company. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 4,173.

Issued Jan. 3, 1885, to Edwin H. Forester, for the east half of the east half of the northwest quarter, the east half of the southwest quarter of section 19, township 1 north, range 5 west, S. B. M., 480 acres. Agreed purchase price, $2,400. Purchase price paid, $480; interest paid, $403.20. Deed issued ————, to ————. Present owner of contract, Edwin H. Forester. Patent No. ——. Issued ————, for ——— acres of land described above.

Contract No. 4,174.

Issued Jan. 3, 1885, to Frederick W. Mattern, for the west half of the northwest quarter, the west half of the southwest quarter of section 19, township 1 north, range 5 west, S. B. M., 157.97 acres. Agreed purchase price, $789.85. Purchase price paid, $157.97; interest paid, $353.84. Deed issued ————, to ————. Present owner of contract, Frederick W. Mattern. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,640.

Issued March 30, 1887, to Samuel Merrill, for the southwest quarter of the northwest quarter, and lots 1 and 2 of section 21, township 1 north, range 5 west, S. B. M., 94.51 acres. Agreed purchase price, $472.55. Purchase price paid, $94.51; interest paid, $52.92. Deed issued ————. to ————. Present owner of contract, Semi Tropic Land and Water Company. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 5,394.

Issued March 3, 1886, to John Leo and S. Motroni, for the southwest quarter of the southeast quarter, and lots 3, 4 and 5, of section 21, township 1 north, range 5 west, S. B. M., 135.83 acres. Agreed purchase price, $679.15. Purchase price paid, $679.15; interest paid, $47.54. Deed issued ————, to ————. Present owner of contract, J. J. Whitney. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,554.

Issued March 22, 1887, to Edward F. Thayer, for the east half of the southwest quarter of section 21, township 1 north, range 5 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $134.40. Deed issued ————————, to ————————. Present owner of contract, Edward F. Thayer. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 6,555.

Issued March 22, 1887, to Wm. G. Henshaw, for the west half of the southwest quarter of section 21, township 1 north, range 5 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $67.20. Deed issued ————————, to ————————. Present owner of contract, Wm. G. Henshaw. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 4,642.

Issued June 1, 1885, to H. H. Linville, for the northwest quarter of section 27, township 1 north, range 5 west, S. B. M., 152.40 acres. Agreed purchase price, $762. Purchase price paid, $152.40; interest paid, $341.36. Deed issued ————————, to ————————. Present owner of contract, H. H. Linville. Patent No. 6. Issued Dec. 27, 1883, for 152.40 acres of land described above.

Contract No. 3,554.

Issued May 15, 1884, to Frank Bohnart, for lots 2 and 3 of the northeast quarter of section 27, township 1 north, range 5 west, S. B. M., 57.91 acres. Agreed purchase price, $347.46. Purchase price paid, $347.46; interest paid, $109.38. Deed issued Jan. 6, 1890, to Frank Bohnart. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 57.91 acres of land described above.

Contract No. 3,553.

Issued May 15, 1884, to E. H. Morse, for the fractional southeast quarter of section 27, township 1 north, range 5 west, S. B. M., 159.99 acres. Agreed purchase price, $999.94. Purchase price paid, $999.94; interest paid, $146.52. Deed issued Dec. 29, 1886, to E. H. Morse. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 159.99 acres of land described above.

Contract No. 4,234.

Issued Jan. 29, 1895, to J. R. Nevin, for the southwest quarter of section 27, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $221. Deed issued Jan. 9, 1890. to Joseph R. Nevin. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,244.

Issued Jan. 31, 1885, to Mrs. Harriet O. Mattern, for the northeast quarter of section 29, township 1 north, range 5

west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $102.69. Deed issued ————————, to ————————. Present owner of contract, Mrs. Harriet O. Mattern. Patent No. ——. Issued ————————, for ——— acres of land described above.

Contract No. 4,151.

Issued Dec. 26, 1884, to Mrs. Harriet O. Mattern, for the northwest quarter of section 29, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $268.80. Deed issued ————————, to ————————. Present owner of contract, Mrs. Harriet O. Mattern. Patent No. ——. Issued ————————, for ——— acres of land described above.

Contract No. 4,195.

Issued Jan. 16, 1885, to Frank Freidman, for the southeast quarter of section 29, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $241.05. Deed issued ————————, to ————————. Present owner of contract, Frank Freidman. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 4,169.

Issued Jan. 2, 1885, to Christian Domascheuz, for the southwest quarter of section 29, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $448. Deed issued ————————, to ————————. Present owner of

contract, Christian Domascheuz. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 4,175.

Issued Jan. 3, 1885, to Edwin H. Forester, for all of section 31, township 1 north, range 5 west, S. B. M., 639.26 acres. Agreed purchase price, $3,196.30. Purchase price paid, $639.26; interest paid, 536.97. Deed issued ——— to ————. Present owner of contract, Edwin H. Forester. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 4,189.

Issued Jan. 12, 1885, to J. D. Ousterhout, for the southeast quarter of section 33, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $266.95. Deed issued ————, to ————. Present owner of contract, F. M. Haws. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 6,055.

Issued Nov. 18, 1886, to E. M. Haws and F. M. Haws, for the northeast quarter of section 33, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $358.40. Deed issued ————, to ————. Present owner of contract, E. M. Haws and F. M. Haws. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,056.

Issued Nov. 18, 1886, to E. M. Haws and F. M. Haws, for the northwest quarter of section 33, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $358.40. Deed issued ————————, to ————————. Present owner of contract, E. M. Haws. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 6,057.

Issued Nov. 18, 1886, to E. M. Haws and F. M. Haws, for the southwest quarter of section 33, township 1 north, range 5 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $358.40. Deed issued ————————, to ————————. Present owner of contract, E. M. Haws. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 35,551.

Issued May 15, 1884, to John Suverkrup, for the northwest quarter and the north half of the southwest quarter of section 35, township 1 north, range 5 west, S. B. M., 240 acres. Agreed purchase price, $2,400. Purchase price paid, $2,400; interest paid, $393.13. Deed issued April 22, 1887, to John Suverkrup. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 240 acres of land described above.

Contract No. 3,556.

Issued May 15, 1884, to George A. Ferguson, for the south half of the southwest quarter of section 35, township 1 north, range 5 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $119.10. Deed issued Jan. 13, 1887, to George A. Ferguson. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,838.

Issued Aug. 9, 1886, to C. Elliott and M. Kelleher, for the northeast quarter of section 7, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $89.60. Deed issued ————, to ————. Present owner of contract, Charles W. Smith. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 7,600.

Issued June 20, 1887, to John B. Burch, for the west half and the southeast quarter of section 7, township 1 north, range 6 west, S. B. M., 480 acres. Agreed purchase price, $2,400. Purchase price paid, $480; interest paid, $268.80. Deed issued ————, to ————. Present owner of contract, Charles W. Smith. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,654.

Issued April 4, 1887, to H. M. Loud, for the southeast quarter of section 9, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ————, to ————. Present owner of contract, H. M. Loud. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 6,011.

Issued Nov. 1, 1886, to F. W. Wood and George S. Safford, for the west half of the southwest quarter of section 9, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $31.73. Deed issued Sept. 23, 1889, to F. W. Wood and George S. Safford. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 6,011½.

Issued Nov. 1, 1886, to F. W. Wood and George S. Safford, for the east half of the southwest quarter of section 9, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $22.40. Deed issued ————, to ————. Present owner of contract, F. W. Wood and George S. Safford. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 3,266.

Issued March 3, 1884, to Michel Sainsevain, for the west half of section 11, township 1 north, range 6 west, S. B. M., 320 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $67.20. Deed issued Sept. 28, 1885, to Gean L. Sainsevain. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 9,182.

Issued Jan. 19, 1888, to Mathew Byrne, for the northeast quarter of section 13, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $321.20. Deed issued ————, to ————. Present owner of contract, Mathew Byrne. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 9,542.

Issued May 1, 1888, to D. G. Scofield, for the east half of the northwest quarter of section 13, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $44.80. Deed issued ————, to ————. Present owner of contract, D. G. Scofield. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 9,543.

Issued May 1, 1888, to D. G. Scofield, for the west half of the northwest quarter of section 13, township 1 north,

range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $44.80. Deed issued ————————, to ————————. Present owner of contract, D. D. Hazard. Patent No. ——. Issued ————————, for ——— acres of land described above.

Contract No. 3,264.

Issued March 3, 1884, to A. G. Perdew, for the south half of the southeast quarter of section 13, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $226.15. Deed issued March 27, 1889, to M. Byrne. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,265.

Issued March 3, 1884, to R. P. Perdew, for the north half of the southeast quarter of section 13, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $309.86. Deed issued Nov. 16, 1891, to M. Byrne. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,436.

Issued April 17, 1884, to Archibald Martin, for the southwest quarter of section 13, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $446.75. Deed issued June 3, 1889, to Archibald Martin. Present owner

of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 6,210.

Issued Jan. 3, 1887, to T. Banbury, for the northeast quarter of section 15, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $224. Deed issued ————, to ————. Present owner of contract, T. Banbury. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,411.

Issued March 3, 1885, to F. W. Wood and George S. Safford, for the northwest quarter of section 15; the southwest quarter of the northeast quarter, the east half of the northwest quarter, the northwest quarter of the southeast quarter, and the west half of the northwest quarter of section 27, township 1 north, range 6 west, S. B. M., 400 acres. Agreed purchase price, $3,400. Purchase price paid, $3,400; interest paid, $960.48. Deed issued March 28, 1890, to F. W. Wood and George S. Safford. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 400 acres of land described above.

Contract No. 4,312.

Issued Feb. 7, 1885, to T. Banbury, for the west half of the southeast quarter of section 15, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $358.40.

Deed issued ————, to ————. Present owner of contract, T. Banbury. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,365.

Issued March 24, 1885, to Mrs. Maria Porter, for the east half of the southeast quarter of section 15, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $263.80. Deed issued Feb. 14, 1891, to Mrs. Maria Porter. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,366.

Issued March 24, 1884, to Charles H. Morse, for the east half of the southwest quarter of section 15, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $230.07. Deed issued May 17, 1889, to George S. Safford and Fred W. Wood. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,966.

Issued Oct. 1, 1884, to Wm. Hawker, for the west half of the southwest quarter of section 15, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $224. Deed issued Sept. 23, 1889, to Mrs. I. P. Dupuytren, F. W. Wood and George S. Safford. Present owner of contract,

————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,676.

Issued June 17, 1886, to C. Elliott and M. Kelleher, for the east half of the northeast quarter of section 17, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $121.14; interest paid, $173.44. Deed issued ———— to ———. Present owner of contract, W. J. Bryant. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,677.

Issued June 17, 1886, to C. Elliott and M. Kelleher, for the south half of the southwest quarter and the southeast quarter of section 17, township 1 north, range 6 west, S. B. M., 240 acres. Agreed purchase price, $600. Purchase price paid, $120; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, C. Elliott and M. Kelleher. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 4,124.

Issued Dec. 12, 1884, to G. A. Schaser, for the west half of the northwest quarter of section 17, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $100. Deed issued ———— to ————. Present owner of contract, Charles W. Smith. Patent No. ———.

Issued ————————, for ——— acres of land described above.

Contract No. 4,282.

Issued Feb. 5, 1885, to G. A. Schaser, for the north half of the southwest quarter of section 17, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $100.80. Deed issued ———————— to ————————. Present owner of contract, Charles W. Smith. Patent No. ——. Issued ————————, for ——— acres of land described above.

Contract No. 10,731.

Issued May 14, 1891, to Edgar E. Lefebone, for the northeast quarter of the northeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,732.

Issued May 14, 1891, to Edgar E. Lefebone, for the northwest quarter of the northeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,733.

Issued May 14, 1891, to Edgar E. Lefebone, for the southeast quarter of the northeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,734.

Issued May 14, 1891, to Edgar E. Lefebone, for the southwest quarter of the northeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,735.

Issued May 14, 1891, to Edgar E. Lefebone, for the northeast half of the northwest quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,736.

Issued May 14, 1891, to Edgar E. Lefebone, for the northwest quarter of the northwest quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,737.

Issued May 14, 1891, to Edgar E. Lefebone, for the southeast quarter of the northwest quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,738.

Issued May 14, 1891, to Edgar E. Lefebone, for the southwest quarter of the northwest quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,739.

Issued May 14, 1891, to Edgar E. Lefebone, for the northeast quarter of the southeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,740.

Issued May 14, 1891, to Edgar E. Lefebone, for the northwest quarter of the southeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,741.

Issued May 14, 1891, to Edgar E. Lefebone, for the southeast quarter of the southeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————————, to ————————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,742.

Issued May 14, 1891, to Edgar E. Lefebone, for the southwest quarter of the southeast quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ————, to ————. Present owner of contract, Edgar E. Lefebone. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 10,743.

Issued May 14, 1891, to Edgar E. Lefebone, for the northeast quarter of southwest quarter, of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $20.00; interest paid, $5.60. Deed issued ———— to ———— ———. Present owner of contract, Edgar E. Lefebone. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 10,744.

Issued May 14, 1891, to Edgar E. Lefebone, for northwest quarter of southwest quarter of section 21, township 1 north, range six west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $20.00; interest paid, $5.60. Deed issued ———— to ————. Present owner of contract, Edgar E. Lefebone. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 10,745.

Issued May 14, 1891, to Edgar E. Lefebone, for the southeast quarter of the southwest quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $20.00; interest paid, $5.60. Deed issued ———— to ————. Present owner of contract, Edgar E. Lefebone. Patent No. —. Issued ————, for ———— acres of land described above.

Contract No. 10,746.

Issued May 14, 1891, to Edgar E. Lefebone, for the southwest quarter of the southwest quarter of section 21, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $20.00; interest paid, $5.60. Deed issued ———— to ————. Present owner of contract, Edgar E. Lefebone. Patent No. —. Issued ————, for ———— acres of land described above.

Contract No. 10,252.

Issued March 19, 1890, to T. Banbury, for the east half of the northeast quarter and west half of the southeast quarter of section 23, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purprice paid, $1,600.00; interest paid, $171.60. Deed issued, Feb. 17, 1892, to T. Banbury. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 10,253.

Issued March 19, 1890, to Wm. Dickey, for the east half of the southeast quarter of section 23, west half of the

southeast quarter, south half of the southwest quarter of section 31, township 1 north, range 6 west, S. B. M., 240.18 acres. Agreed purchase price, $2,401.80. Purchase price paid, $2,401.80; interest paid, $———. Deed issued March 28, 1890, to Wm. Dickey. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 240.18 acres of land described above.

Contract No. 3,267.

Issued March 3, 1884, to T. Banbury, for the southwest quarter of the northeast quarter; southeast quarter of the northwest quarter and southwest quarter of section 23, township 1 north, range 6 west, S. B. M., 240 acres. Agreed purchase price, $2,000.00. Purchase price paid, $2,000.00; interest paid, $560.00. Deed issued April 16, 1889, to T. Banbury. Present owner of contract ———. Patent No. 6. Issued Dec. 27, 1883, for 240 acres of land described above.

Contract No. 6,498.

Issued March 16, 1887, to Henry M. Loud, for the west half of the northwest quarter of section 23, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $89.60. Deed issued March 16 1896, to Henry M. Loud. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,931.

Issued September 24, 1884, to E. H. Forester, for the northeast quarter of the northeast quarter; south half of

the northeast quarter; northwest quarter of the northwest quarter; south half of the northwest quarter and south half of section 25, township 1 north, range 6 west, S. B. M., 560 acres. Agreed purchase price, $4,200.00. Purchase price paid, $840.00; interest paid, $940.80. Deed issued ———— to ————. Present owner of contract, E. H. Forester. Patent No. 6. Issued Dec. 27, 1883, for 560 acres of land described above.

Contract No. 3,868.

Issued Aug. 20, 1884, to Joseph A. Scott, for the northwest quarter of the northeast quarter and northeast quarter of northwest quarter of section 25, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $100.80. Deed issued Aug. 29, 1887, to Joseph A. Scott. Present owner of contract ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 10,250.

Issued Mar. 15, 1890, to George S. Safford, F. W. Wood, and Mrs. I. P. Dupuytren, for the northwest quarter of the northeast quarter of section 27, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $156.80. Deed issued ———— to ————. Present owner of contract, George S. Safford, F. W. Wood and Mrs. I. P. Dupuytren. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,678.

Issued June 17, 1886, to C. Elliott, for the east half of the northeast quarter of section 27, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $134.40. Deed issued ———— to ————. Present owner of contract, Geo. C. Mesnager & Pierre Darancette. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,436.

Issued Mar. 13, 1885, to T. Banbury, for the east half of the southeast quarter of section 27, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $153.40. Deed issued May 13, 1885, to T. Banbury. Present owner of contract ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,418.

Issued Mar. 5, 1885, to E. L. Watkins, for the southwest quarter of the southeast quarter of section 27, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $117.60. Deed issued June 7, 1890, to George S. Safford, F. W. Wood and Mrs. I. P. Dupuytren. Present owner of contract ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,868.

Issued Aug. 24, 1886, to N. B. Bradley and H. M. Loud, for the east half of the southwest quarter of section 27,

township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $5.76. Deed issued Oct. 7, 1887, to N. B. Bradley and H M. Loud. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,679.

Issued June 17, 1886, to C. Elliott, for the west half of the southwest quarter of section 27, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $51.05. Deed issued Jan. 13, 1891, to R. W. Poindexter. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 6,160.

Issued Dec. 20, 1886, to W. H. Carlson, for the west half of section 29, township 1 north, range 6 west, S. B. M., 320 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $179.20. Deed issued ———— to ————. Present owner of contract, W. H. Carlson. Patent No. 6. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 3,297.

Issued Mar. 10, 1884, to George Chaffey, for the east half of the southeast quarter of section 29, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $82.13. Deed issued Jan. 12, 1886, to George Chaf-

fey. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,298.

Issued Mar. 10, 1884, to George Chaffey, for the west half of the southeast quarter of section 29, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $304.31. Deed issued April 21, 1891, to Thomas Thomsen. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,185.

Issued Jan. 7, 1885, to Leslie T. Smith, for the east half of the northeast quarter of section 31, township 1 north, range 6 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $———. Deed issued Jan. 9, 1885, to Leslie T. Smith. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 6,089.

Issued Nov. 26, 1886, to W. Taylour English, for the west half of the northeast quarter and north half of section 31, township 1 north, range 6 west, S. B. M., 160.55 acres. Agreed purchase price, $1,605.50. Purchase price paid, $452.35; interest paid, $737.95. Deed issued ——— to ———— Present owner of contract, John S. Maltman. Patent No. 6. Issued Dec. 27, 1883, for 160.55 acres of land described above.

Contract No. 5,650.

Issued June 5, 1886, to Wm. T. Baker and H. S. McNeil, for the fractional northwest quarter of section 31, township 1 north, range 6 west, S. B. M., 162.19 acres. Agreed purchase price, $810.95. Purchase price paid, $810.95; interest paid, $243.03. Deed issued, Dec. 2, 1891, to Charles R. Long and Thomas Thomsen. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 162.19 acres of land described above.

Contract No. 10,265.

Issued April 4, 1890, to Wm. Dickey, for the southwest quarter of the southeast quarter, section 31, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400.00 Purchase price paid, $400.00; interest paid, $——. Deed issued Apr. 8, 1890, to Wm. Dickey. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 10,902.

Issued Nov. 7, 1891, to James Hanley, for the northeast quarter of the southeast quarter of section 31, township 1 north, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———————— to ————————. Present owner of contract, Robert A. Guthrie. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 2,353.

Issued July 19, 1882, to George Chaffey, Jr., for all of section 33, township 1 north, range 6 west, S. B. M., 640

acres. Agreed purchase price, $5,200. Purchase price paid, $5,200; interest paid, $————. Quitclaim deed issued July 26, 1882, to George Chaffey, Jr.. Present owner of contract, ————. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 5,869.

Issued Aug. 24, 1886, to N. B. Bradley and H. B. Loud, for the northeast quarter of section 35, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $268.80. Deed issued Sept. 16, 1890, to N. B. Bradley and H. M. Loud. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,870.

Issued Aug. 24, 1886, to N. B. Bradley and H. B. Loud, for the southeast quarter of section 35, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $268.80. Deed issued Sept. 16, 1890, to N. B. Bradley and H. M. Loud. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,209.

Issued Jan. 12, 1886, to M. E. Wood, for the northwest quarter of section 35, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $536.00. Deed issued Jan. 13, 1891, to M. E. Wood. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,680.

Issued June 17, 1886, to C. Elliott, for the southwest quarter of section 35, township 1 north, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $382.67. Deed issued Mar. 10, 1892, to S. K. McIlhenny. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 9,751.

Issued June 20, 1888, to C. W. Smith, for the northeast quarter of section 1, township 1 north, range 7 west, S. B. M., 159.45 acres. Agreed purchase price, $199.31. Purchase price paid, $39.86; interest paid, $11.16. Deed issued ———— to ————. Present owner of contract, C. W. Smith. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 9,752.

Issued June 20, 1888, to C. W. Smith, for the northwest quarter of section 1, township 1 north, range 7 west, S. B. M., 158.35 acres. Agreed purchase price, $197.94. Purchase price paid, $39.59; interest paid, $11.09. Deed issued ———— to ————. Present owner of contract, C. W. Smith. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 9,753.

Issued June 20, 1888, to C. W. Smith, for the southeast quarter of section 1, township 1 north, range 7 west, S. B. M., 160 acres. Agreed purchase price, $200.00. Pur-

chase price paid, $40.00; interest paid, $11.20. Deed issued ———— to ————. Present owner of contract, C. W. Smith. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 9,754.

Issued June 20, 1888, to C. W. Smith, for the southwest quarter of section 1, township 1 north, range 7 west, S. B. M., 160 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $11.20. Deed issued ———— to ————. Present owner of contract, C. W. Smith. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 10,903.

Issued Nov. 9, 1891, to Geo. A. Haskell, for all of section 9, township 1 north, range 7 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $179.20. Deed issued ———— to ————. Present owner of contract, Geo. A. Haskell. Patent No. ———. Issued ————, for — acres of land described above.

Contract No. 7,825.

Issued July 15, 1887, to A. Petsch, for all of section 11, township 1 north, range 7 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $———. Deed issued ———— to ————. Present owner of contract, A. Petsch. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 7,824.

Issued July 15, 1887, to John A. Obersteller, for all of section 13, township 1 north, range 7 west, S. B. M., 640 acres. Agreed purchase price, $960.00. Purchase price paid, $192.00; interest paid, $215.04. Deed issued ——— ——— to ———. Present owner of contract, Chas. W. Smith. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 6,249.

Issued Jan. 14, 1887, to Wm. Whitfield, for the east half of section 15, township 1 north, range 7 west, S. B. M., 320 acres. Agreed purchase price, $1,040.00. Purchase price paid, $1,040.00; interest paid, $226.24. Deed issued ——— to ———. Present owner of contract, Wm. Whitfield. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 6,248.

Issued Jan. 14, 1887, to J. C. Sommer, for the west half of section 15, township 1 north, range 7 west, S. B. M., 320 acres. Agreed purchase price, $960.00. Purchase price paid, $192.00; interest paid, $350.00. Deed issued ——— to ———. Present owner of contract, J. C. Sommer. Patent No. ———. Issued ——— ———, for ——— acres of land described above.

Contract No. 3,905.

Issued Sept. 8, 1884, to Abraham Haas, for the south half of the southwest quarter of section 17, township 1 north, range 7 west, S. B. M., 80 acres. Agreed purchase

price, $400.00. Purchase price paid, $400.00; interest paid, $113.87. Deed issued ———— to ————. Present owner of contract, Charles Frankish. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 8,881.

Issued Dec. 27, 1887, to L. F. Scott, for the northeast quarter of section 17, township 1 north, range 7 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $156.80. Deed issued ———— to ————. Present owner of contract, Co-operative Improvement Co. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 8,882.

Issued Dec. 27, 1887, to L. F. Scott, for the northwest quarter and north half of southwest quarter of section 17, township 1 north, range 7 west, S. B. M., 240 acres. Agreed purchase price, $600.00. Purchase price paid, $120.00; interest paid, $235.20. Deed issued ———— to ————. Present owner of contract, Co-operative Improvement Co. Patent No. ——. Issued ————, for ——— acres of land described above.

Contract No. 8,883.

Issued Dec. 27, 1887, to L. F. Scott, for the southeast quarter of section 17 township 1 north, range 7 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $627.20. Deed issued ———— to ————. Present owner of contract, Co-operative Improvement Co. Patent No. —.

Issued ————————, for ——— acres of land described above.

Contract No. 3,906.

Issued Sept. 8, 1884, to Abraham Haas, for lots one, two, three, and four, of section 19, township 1 north, range 7 west, S. B. M., 141.58 acres. Agreed purchase price, $707.90. Purchase price paid, $707.90; interest paid, $201.50. Deed issued ———————— to ————————. Present owner of contract, Charles Frankish. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 3,559.

Issued May 15, 1884, to J. C. Sommer, for lots one and two of section 21, township 1 north, range 7 west, S. B. M., 68.28 acres. Agreed purchase price, $341.40. Purchase price paid, $341.40; interest paid, $———. Deed issued May 16, 1884, to J. C. Sommer. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 68.28 acres of land described above.

Contract No. 3,558.

Issued May 15, 1884, to H. E. Sontag, for lots three and four of section 21, township 1 north, range 7 west, S. B. M., 68.28 acres. Agreed purchase price, $341.40. Purchase price paid, $341.40; interest paid, 63 cents. Deed issued June 16, 1884, to H. E. Sontag. Present owner of contract ————————. Patent No. 6. Issued Dec. 27, 1883 for 68.28 acres of land described above.

Contract No. 3,678.

Issued June 5, 1884, to Henry Otto, for the north half of section 23, township 1 north, range 7 west, S. B. M.,

320 acres. Agreed purchase price, $1,040.00. Purchase price paid, $208.00; interest paid, $407.68. Deed issued ———— to ————. Present owner of contract, Otto A. Stassforth and Morris I. Hellman. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 3,679.

Issued June 5, 1884, to Peter Peterson, for the south half of section 23, township 1 north, range 7 west, S. B. M., 320 acres. Agreed purchase price, $560.00. Purchase price paid, $112.00; interest paid, $250.88. Deed issued ———— to ————. Present owner of contract, C. M. Wells. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 7,826.

Issued July 15, 1887, to L. F. Scott, for all of section 25, township 1 north, range 7 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $627.20. Deed issued ———— to ————. Present owner of contract, Co-operative Improvement Co. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 3,710.

Issued June 13, 1884, to I. W. Hellman and O. W. Childs, for the east half of northeast quarter; east half of the southeast quarter, and lots one, two, three, and four, of section 27, township 1 north, range 7 west, S. B. M., 173.48 acres. Agreed purchase price, $1,518.42. Purchase price paid, $1,518.42; interest paid, $———. Deed

issued June 24, 1884, to I. W. Hellman and O. W. Childs. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 173.48 acres of land described above.

Contract No. 3,557.

Issued May 15, 1884, to A. O. Porter, for the northwest quarter of the northeast quarter; east half of the northeast quarter; southeast quarter of the southeast quarter; lots one, two, three, and four, section 35, township 1 north, range 7 west, S. B. M., 165.88 acres. Agreed purchase price, $1,658.80. Purchase price paid, $1,658.80; interest paid, $———. Deed issued May 16, 1884, to A. O. Porter. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 165.88 acres of land described above.

Contract No. 9,415.

Issued Mar. 1, 1888, to Bear Valley Land and Water Co., for the north half of the northeast quarter; northeast quarter of the northwest quarter of section 13, township 2 north, range 1 west, S. B. M., 120 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $168.00. Deed issued Mar. 3, 1893, to Bear Valley Irrigation Co. Present owner of contract, ———— ————. Patent No. 3. Issued Dec. 2, 1880, for 120 acres. of land described above.

Contract No. 8,816.

Issued Dec. 9, 1887, to Shirley C. Ward, for the southeast quarter of the northeast quarter and the south half of section 23, township 2 north, range 1 west, S. B. M., 360 acres. Agreed purchase price, $1,800.00. Purchase

price paid, $1,800.00; interest paid, $705.60. Deed issued Dec. 21, 1894, to John G. North. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 200 acres of land described above. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,631.

Issued May 21, 1885, to M. Byrne and W. E. Van Slyke, for the east half of section 19, township 2 north, range 2 west, S. B. M., 320 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $268.80. Deed issued May 25, 1891, to M. Byrne. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 320 acres of land described above.

Contract No. 3,308.

Issued Mar. 12, 1884, to W. E. Van Slyke, for the west half of section 19, township 2 north, range 2 west, S. B. M., 320.64 acres. Agreed purchase price, $801.60. Purchase price paid, $801.60; interest paid, $309.28. Deed issued Feb. 16, 1891, to M. Byrne. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 320.64 acres of land described above.

Contract No. 8,491.

Issued Oct. 13, 1887, to Alban N. Towne, for all of section 21, township 2 north, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,840.00. Purchase price paid, $368.00; interest paid, $515.20. Deed issued ———— ———— to ————————. Present owner of contract, A. N. Towne. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 8,492.

Issued Oct. 13, 1887, to A. N. Towne, for all of section 23, township 2 north, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,920.00. Purchase price paid, $384.00; interest paid, $537.50. Deed issued ———— to ————. Present owner of contract, A. N. Towne. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 7,919.

Issued Aug. 1, 1887, to Frank Burton, for all of section 27, township 2 north, range 2 west, S. B. M., 640 acres. Agreed purchase price, $3,200.00. Purchase price paid, $640.00; interest paid, $179.20. Deed issued ———— to ————. Present owner of contract, T. H. McCall. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 7,946.

Issued Aug. 3, 1887, to T. H. McCall, for the northeast quarter of section 29, township 2 north, range 2 west, S. B. M., 160 acres. Agreed purchase price, $560.00. Purchase price paid, $112.00; interest paid, $31.36. Deed issued ———— to ————. Present owner of contract, T. H. McCall. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,947.

Issued Aug. 3, 1887, to T. H. McCall, for the south half of the southeast quarter of section 29, township 2 north, range 2 west, S. B. M., 80 acres. Agreed purchase price,

$400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ———— to ————. Present owner of contract, T. H. McCall. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 7,699.

Issued July 1, 1887, to P. J. Stockman, for the southwest quarter of section 29, township 2 north, range 2 west, S. B. M., 160 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $206.24. Deed issued April 8, 1892, to C. D. Danaher and James E. Danaher. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,493.

Issued Oct. 13, 1887, to A. N. Towne, for all of section 35, township 2 north, range 2 west, S. B. M., 640 acres. Agreed purchase price, $2,200. Purchase price paid, $440.00; interest paid, $616.00. Deed issued ———— to ————. Present owner of contract, A. N. Towne. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 10,765.

Issued June 12, 1891, to Arrowhead Reservoir Co., for the northeast quarter; north half of the southeast quarter and northwest quarter of southwest quarter of section 15, township 2 north, range 3 west, S. B. M.; northwest half of section 17, township 2 north, range 3 west, S. B. M., 440 acres. Agreed purchase price, $4,400.00. Purchase price paid, $4,400.00; interest paid, $———. Quit-

claim deed issued June 15, 1891, to Arrowhead Reservoir Co. Present owner of contract, ————. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 11,179.

Issued June 13, 1892, to Lewis Jacobs, for the north half of section 21, township 2 north, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $——. Quitclaim deed issued June 16, 1892, to Lewis Jacobs. Present owner of contract, ————. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 6,223.

Issued Jan. 6, 1887, to John C. Flanigan, for the southwest quarter of section 19, township 2 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $——. Deed issued ———— to ————. Present owner of contract, John C. Flanigan. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 11,194.

Issued July 21, 1892, to Arrowhead Mountain Club, for the west half of the northeast quarter; northwest quarter of the southeast quarter of section 25, township 2 north, range 4 west, S. B. M., 120 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $134.40. Deed issued ———— to ——. Present owner of contract, Arrowhead Mountain Club. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 11,161.

Issued May 21, 1892, to Henry J. Beggs and Peter C. Bear, for the east half of the northeast quarter; northeast quarter of the southeast quarter of section 25, township 2 north, range 4 west, S. B. M., 120 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $268.80. Deed issued ———— to ————. Present owner of contract, Henry J. Beggs and Peter C. Bear. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 10,810.

Issued Sept. 11, 1891, to Riverside Box and Tray Co., for the northwest quarter and north half of the southwest quarter of section 25, township 2 north, range 4 west, S. B. M., 240 acres. Agreed purchase price, $2,000.00. Purchase price paid, $400.00; interest paid, $224.00. Deed issued ———— to ————. Present owner of contract, Riverside Box and Tray Co. Patent No. ——. Issued ————, for ——— acres of land described above.

Contract No. 10,365.

Issued July 2, 1890, to James S. Weeks, for all of section 31, township 2 north, range 4 west, S. B. M., 640 acres. Agreed purchase price, $3,200.00. Purchase price paid, $1,280.00; interest paid, $448.00. Deed issued ———— to ————. Present owner of contract, W. R. Wiggins. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 4,331.

Issued Feb. 13, 1885, to California Southern Railroad Company, for a strip of land one hundred feet wide for right of way, over, along, through, and across the south half and the northwest quarter of section 29; west half and north half of the southeast quarter of section 19; west half of section 7, township 2 north, range 5 west; west half of section 13, and east half of section 1, township 2 north, range 6 west; northwest quarter of section 35; east half of section 27; south half of section 23, township 3 north, range 6 west; north half and southeast quarter of section 19; west half of northeast quarter of section 21, township 3 north, range 5 west, S. B. M., 953.38 acres. Agreed purchase price, $953.80. Purchase price paid, $953.80; interest paid, $———. Quitclaim deed issued July 21, 1885, to California Southern Railroad Company. Present owner of contract, ————————. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 11,204.

Issued Sept. 15, 1892, to Fred Dell, for the east half of section 19, township 2 north, range 7 west, S. B. M., 320 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $358.40. Deed issued ——— ——— to ————————. Present owner of contract, Albert J. Wallace. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 9,337.

Issued Feb. 9, 1888, to Frank A. Cummings, for the northwest quarter of the southwest quarter of section 21,

township 3 north, range 4 west, S. B. M., 40 acres. Agreed purchase price, $300.00. Purchase price paid, $60.00; interest paid, $16.80. Deed issued ——— to ———. Present owner of contract, Frank A. Cummings. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 4,718.

Issued July 22, 1885, to J. F. Houghton, for the northeast quarter, the north half of northwest quarter and the southeast quarter of the northwest quarter of section 35, township 3 north, range 5 west, S. B. M., 280 acres. Agreed purchase price, $420.00. Purchase price paid, $84.00; interest paid, $94.08. Deed issued ——— to ———. Present owner of contract, J. F. Houghton. Patent No. ———. Issued ——— for ——— acres of land described above.

Contract No. 6,548.

Issued March 21, 1887, to David A. Hamburger, for the south half of section 19, township 5 north, range 4 west, S. B. M., 304.36 acres. Agreed purchase price, $760.90. Purchase price paid, $152.18; interest paid, $127.83. Deed issued ——— to ———. Present owner of contract, David A. Hamburger. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 6,453.

Issued March 9, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin and Albert Jenks, for the southeast quarter of section 21, township 5 north, range 4 west, S. B. M., 160

acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $89.60. Deed issued ——— to ———. Present owner of contract, B. N. Smith. Patent No. ———. Issued ———, for —— acres of land described above.

Contract No. 6,454.

Issued March 9, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin and Albert Jenks, for the southwest quarter of section 21, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $89.60. Deed issued ——— to ———. Present owner of contract, B. N. Smith. Patent No. ———. Issued ———, for —— acres of land described above.

Contract No. 4,879.

Issued Oct. 9, 1885, to James Brown, for the south half of the southeast quarter; the south half of the southwest quarter, of section 23; the west half of section 25, township 5 north, range 4 west, S. B. M., 480 acres. Agreed purchase price, $2,640.00. Purchase price paid, $528.00; interest paid, $1,182.72. Deed issued ——— to ———. Present owner of contract, James Brown. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 6,685.

Issued April 6, 1887, to Rusk Harris, for the northeast quarter of section 25, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00.

Purchase price paid, $80.00; interest paid, $224.00. Deed issued ———— to ————. Present owner of contract, Rusk Harris. Patent No. ———. Issued ———— for ——— acres of land described above.

Contract No. 6,686.

Issued April 6, 1887, to Rusk Harris, for the southeast quarter of section 25, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $96.00; interest paid, $268.80. Deed issued ———— to ————. Present owner of contract, Rusk Harris. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,455.

Issued March 9, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin and Albert Jenks, for the northeast quarter of section 27, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $89.60. Deed issued ——— to ————. Present owner of contract, A. S. Baldwin. Patent No. ———. Issued ————, for — acres of land described above.

Contract No. 6,456.

Issued March 9, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin, and Albert Jenks, for the northwest quarter of section 27, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $89.60. Deed issued ——— to ————. Present owner of contract, Albert

Jenks. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 6,457.

Issued March 9, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin, and Albert Jenks, for the southeast quarter of section 27, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———— to ————. Present owner of contract, D. P. Hatch. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 6,458.

Issued March 8, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin, and Albert Jenks, for the southwest quarter of section 27, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———— to ————. Present owner of contract, D. P. Hatch. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 6,394.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the northeast quarter of section 29, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Julius Brousseau and D. P. Hatch. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 6,395.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the northwest quarter of section 29, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Julius Brousseau and D. P. Hatch. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,396.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the southeast quarter of section 29, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Julius Brousseau and D. P. Hatch. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,397.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the southwest quarter of section 29, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Julius Brousseau and D. P. Hatch. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,448.

Issued March 9, 1887, to M. M. Bovard, for all of section 31, township 5 north, range 4 west, S. B. M., 614.68 acres. Agreed purchase price, $1,536.70. Purchase price paid, $307.34; interest paid, $86.06. Deed issued ———— to ————. Present owner of contract, M. M. Bovard. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 6,398.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the northeast quarter of section 33, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———— to ————. Present owner of contract, Sol. N. Sheridan, Jr. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 6,399.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the northwest quarter of section 33, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Julius Brousseau and D. P. Hatch. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 6,400.

Issued March 3, 1887, to Julius Brousseau and D. P. Hatch, for the southeast quarter of section 33, township 5

north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———— to ————. Present owner of contract, Sol. N. Sheridan, Jr. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,401.

Issued March 3, 1887, to Henry Y. Harding, for the southwest quarter of section 33, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ———— to ————. Present owner of contract, Henry Y. Harding. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 4,921.

Issued Oct. 29, 1885, to James Brown, for the east half of section 35, township 5 north, range 4 west, S. B. M., 320 acres. Agreed purchase price, $1,120.00. Purchase price paid, $1,120.00; interest paid, $446.54. Deed issued ———— to ————. Present owner of contract, James Brown. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 6,459.

Issued March 9, 1887, to B. N. Smith, D. P. Hatch, A. S. Baldwin and Albert Jenks, for the northwest quarter of section 35, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $89.60. Deed issued ——— to ————. Present owner of contract, B. N. Smith.

Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 6,460.

Issued March 9, 1887, to Henry Y. Harding, for the southwest quarter of section 35, township 5 north, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $179.20. Deed issued ———————— to ————————. Present owner of contract, A. Gerberding. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 4,934.

Issued Nov. 2, 1885, to O. Newburg, for the south half of section 19, township 1 south, range 1 west, S. B. M., 319.24 acres. Agreed purchase price, $1,755.44. Purchase price paid, $1,755.44; interest paid, $393.20. Deed issued Nov. 6, 1889, to O. H. Spoor and W. L. Spoor. Present owner of contract, ———————— Patent No. 6. Issued Dec. 27, 1883, for 319.24 acres of land described above.

Contract No. 9,920.

Issued Sept. 27, 1888, to F. P. Dunlap, for the northwest quarter and the north half of southwest quarter of section 29, township 1 south, range 1 west, S. B. M., 240 acres. Agreed purchase price, $1,584.00. Purchase price paid, $1,584.00; interest paid, $418.87. Deed issued July 11, 1892, to F. P. Dunlap. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 240 acres of land described above.

Contract No. 9,919.

Issued Sept. 27, 1888, to Joseph Webster, for the northeast half of southeast quarter of section 29, township 1 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $320.00. Purchase price paid, $320.00; interest paid, $68.76. Deed issued Aug. 8, 1892, to A. W. Eames. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 10,217.

Issued Nov. 27, 1889, to A. W. Eames, for the southwest quarter of southeast quarter of section 29, township 1 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $320.00. Purchase price paid, $64.00; interest paid, $107.52. Deed issued ———————— to ————————. Present owner of contract, A. W. Eames. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 10,247.

Issued March 7, 1890, to James F. Houghton, for an undivided quarter interest in the southwest quarter of section 31, township 1 south, range 1 west; the southeast quarter of the southeast quarter of section 5; the southeast quarter of the northeast quarter, the west half, the west half of the northeast quarter, the west half of the southeast quarter of section 7; the southwest quarter of the northwest quarter of section 9, township 2 south, range 1 west; all sections 1 and 11; the north half of section 13; the north half of the northeast quarter of section 15, township 2 south, range 2 west, S. B. M., 614.87 acres.

Agreed purchase price, $2,951.41. Purchase price paid, $2,951.41; interest paid, none. Quitclaim deed issued March 10, 1890, to James F. Houghton. Present owner of contract, ————. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 10,248.

Issued March 10, 1890, to Duncan McNee and John H. McNee, for an undivided three-fourths interest in the southwest quarter of section 31, township 1 south, range 1 west, the southeast quarter of the southeast quarter of section 5, the southeast quarter of the northeast quarter, the west half of the west half of the northeast quarter, the west half of the southeast quarter of section 7; the southwest quarter of the northwest quarter of section 9, township 2 south, range 1 west; all sections 1 and 11; the north half of section 13; the north half of the northeast quarter of section 15, township 2 south, range 2 west, S. B. M., 1,844.63 acres. Agreed purchase price, $8,854.20. Purchase price paid, $8,854.20; interest paid, $———. Quitclaim deed issued March 11, 1890, to Duncan McNee and John H. McNee. Present owner of contract, ————. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 3,913.

Issued Sept. 15, 1884, to Abraham Haas, for the north half of the northeast quarter, and the southwest quarter of the northeast quarter of section 7, township 1 south, range 2 west, S. B. M., 120 acres. Agreed purchase price, $300.00. Purchase price paid, $300.00; interest paid,

$84.33. Deed issued, Sept. 25, 1889, to Abraham Haas. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 10,266.

Issued April 7, 1890, to C. Elliott and M. Kellehar, for the southeast quarter of the northeast quarter, and the east half of the southeast quarter of section 7, township 1 south, range 2 west, S. B. M., 120 acres. Agreed purchase price, $300.00. Purchase price paid, $300; interest paid, $18.80. Deed issued May 14, 1891, to Clara Van Buren. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 10,267.

Issued April 7, 1890, to C. Elliott and M. Kellehar, for the west half of the southeast quarter of section 7, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $11.20. Deed issued ———— to ————. Present owner of contract, C. Elliott and M. Kellehar. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 10,268.

Issued April 7, 1890, to C. Elliott and M. Kellehar, for the east half of the southwest quarter of section 7, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $60.04. Deed issued Sept. 16, 1895, to Irving Hall. Present owner of contract, ————.

Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 10,269.

Issued April 7, 1890, to C. Elliott and M. Kellehar, for the west half of the southeast quarter of section 7, township 1 south, range 2 west, S. B. M., 81.56 acres. Agreed purchase price, $203.90. Purchase price paid, $203.90; interest paid, $15.54. Deed issued Aug. 14, 1891, to Jennie Swift. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 81.56 acres of land described above.

Contract No. 10,340.

Issued May 26, 1890, to Charles Elliott, for the northwest quarter of section 7, township 1 south, range 2 west, S. B. M., 164.68 acres. Agreed purchase price, $411.70. Purchase price paid, $411.70; interest paid, $115.30. Deed issued May 27, 1895, to Charles M. Stimson. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 164.68 acres of land described above.

Contract No. 4,180.

Issued Jan. 6, 1885, to E. G. Judson and F. E. Brown, for the west half of the northwest quarter, and the southeast quarter of section 9, township 1 south, range 2 west, S. B. M., 240 acres. Agreed purchase price, $840.00. Purchase price paid, $840.00; interest paid, $391.70. Deed issued March 14, 1893, to E. G. Judson and F. E. Brown. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 240 acres of land described above.

Contract No. 4,181.

Issued Jan. 6, 1885, to E. G. Judson and F. E. Brown, for the east half of the northwest quarter and the northeast quarter of section 9, township 1 south, range 2 west, S. B. M., 240 acres. Agreed purchase price, $840.00. Purchase price paid, $168.00; interest paid, $329.38. Deed issued ———— to ————. Present owner of contract, E. G. Judson and F. E. Brown. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 4,746.

Issued Aug. 14, 1885, to William Curtis, for the east half of section 13, township 1 south, range 2 west, S. B. M., 320 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $168.00. Deed issued Aug. 20, 1890, to William Curtis. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 4,524.

Issued April 14, 1885, to Mrs. E. Wallace, for the north half of the northwest quarter, section 13, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $150.00. Purchase price paid, $150.00; interest paid, $58.10. Deed issued March 28, 1892, to D. W. Parkhurst. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 4,525.

Issued April 14, 1885, to Mrs. E. Wallace, for the south half of the northwest quarter of section 13, township 1

south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $150.00. Purchase price paid, $150.00; interest paid, $58.10. Deed issued March 28, 1892, to D. W. Parkhurst. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,526.

Issued April 14, 1885, to Mrs. E. Wallace, for the north half of the southwest quarter of section 13, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $150.00. Purchase price paid, $150.00; interest paid, $58.10. Deed issued March 28, 1892, to D. W. Parkhurst. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 4,527.

Issued April 14, 1885, to Mrs. E. Wallace, for the south half of the southwest quarter of section 13, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $150.00. Purchase price paid, $150.00; interest paid, $58.10. Deed issued March 28, 1892, to D. W. Parkhurst. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,166.

Issued Jan. 2, 1884, to Mary A. Brown, for the north half and the southeast quarter of section 15, township 1 south, range 2 west, S. B. M., 480 acres. Agreed purchase price, $1,200.00. Purchase price paid, $1,200.00; interest paid, $533.90. Deed issued Dec. 20, 1892, to Mary A.

Brown. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 480 acres of land described above.

Contract No. 4,167.

Issued Jan. 2, 1884, to Mary A. Brown, for the southwest quarter of section 15, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $114.35. Deed issued Feb. 14, 1890, to Mary A. Brown. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,904.

Issued Sept. 8, 1884, to Abraham Haas, for the east half of the northeast quarter, and the southwest quarter of the northeast quarter, southeast quarter, of section 17, township 1 south, range 2 west, S. B. M., 280 acres. Agreed purchase price, $940.00. Purchase price, $940.00; interest paid, $138.62. Deed issued May 4, 1887, to Charles Frankish. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 280 acres of land described above.

Contract No. 2,358.

Issued July 24, 1882, to J. D. B. Stillman, for the northwest quarter of the northeast quarter of section 17, township 1 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $180.00. Purchase price paid, $180.00; interest paid, ———. Deed issued Aug. 5, 1882, to J. D. B. Stillman. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 2,202.

Issued March 20, 1882, to E. G. Judson and F. E. Brown, for the north half of the northwest quarter of section 17, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $56.00. Deed issued April 5, 1887, to Catherine Ingham. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,412.

Issued March 3, 1885, to William B. Tiffany, for the south half of the northwest quarter of section 17, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $46.66. Deed issued May 8, 1889, to W. P. McIntosh. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,574.

Issued May 4, 1885, to Mrs. Emeline Wallace, for the southwest quarter of section 17, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $44.80. Deed issued May 4, 1887, to D. W. Parkhurst. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,219.

Issued Jan. 23, 1885, to Mrs. Nellie Wade, for the northeast quarter of the northeast quarter, and the northeast

quarter of the southeast quarter of section 19, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $48.75. Deed issued June 7, 1889, to Mrs. Nellie Wade. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,100.

Issued Feb. 20, 1882, to E. G. Judson and F. E. Brown, for the south half of the northeast quarter, and the northwest quarter of the southeast quarter, north half of lots 1 and 2, section 19, township 1 south, range 2 west, S. B. M., 200 acres. Agreed purchase price, $500.00. Purchase price paid, $500; interest paid, $140.00. Deed issued March 12, 1887, to Catherine Ingham. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 200 acres of land described above.

Contract No. 2,101.

Issued Feb. 20, 1882, to E. G. Judson and F. E. Brown, for the south half of lot 2, section 19, township 1 south, range 2 west, S. B. M., 39.20 acres. Agreed purchase price, $392.00. Purchase price paid, $392.00; interest paid, $109.75. Deed issued March 12, 1887, to Catherine Ingham. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 39.20 acres of land described above.

Contract No. 2,201.

Issued March 20, 1882, to E. G. Judson and F. E. Brown, for the northwest quarter of the northeast quarter, and

the southeast quarter of the northwest quarter, section 19, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $56.00. Deed issued April 5, 1887, to Catherine Ingham. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,607.

Issued Dec. 2, 1882, to O. E. Johnson, for the northeast half of the northwest quarter, and the west half of the northwest quarter of section 19, township 1 south, range 2 west, S. B. M., 122.40 acres. Agreed purchase price, $306.00. Purchase price paid, $306.00; interest paid, $85.65. Deed issued April 14, 1887, to William R. Tolles. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 122.40 acres of land described above.

Contract No. 2,748.

Issued April 16, 1883, to M. H. Crafts, for the southeast quarter of the southeast quarter of section 19, township 1 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $100.00; interest paid, $———. Deed issued Jan. 31, 1884, to M. H. Crafts. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 980.

Issued Jan. 13, 1881, to Charles R. Paine, for the southwest quarter of the southeast quarter, and the southeast quarter of the southwest quarter of section 19, township

1 south, range 2 west, S. B. M., 800 acres. Agreed purchase price, $500.00. Purchase price paid, $500.00; interest paid, $56.00. Deed issued Jan. 26, 1886, to Charles R. Paine. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,190.

Issued Jan. 14, 1885, to W. B. Tiffany, for the north half of the northeast quarter of section 21, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $48.09. Deed issued May 8, 1889, to W. P. McIntosh. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,216.

Issued Jan. 22, 1885, to William B. Tiffany, for the north half of the northwest quarter of section 21, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $47.60. Deed issued May 8, 1889, to W. P. McIntosh. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,813.

Issued July 17, 1884, to William B. Tiffany, for the southwest quarter of the northwest quarter, and the northwest quarter of the southwest quarter of section 21, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $5.70. Deed issued Jan. 23, 1885, to Wil-

liam B. Tiffany. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,258.

Issued Feb. 3, 1885, to Chauncey Cornell, for the east half of the southeast quarter of section 21, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $268.80. Deed issued Feb. 16, 1891, to R. E. McGinniss. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,259.

Issued Feb. 3, 1885, to Chauncey Cornell, for the west half of the southeast quarter of section 21, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $268.80. Deed issued Feb. 16, 1891, to R. E. McGinniss. Present owner of contract ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 2,149.

Issued March 10, 1882, to M. H. Crafts, for the southwest quarter of the southwest quarter of section 21, and the northwest quarter of the southeast quarter of section 29, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $360.00. Purchase price paid, $360.00; interest paid, $131.71. Deed issued Oct. 2, 1888, to H. C. Rolfe. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,929.

Issued Sept. 22, 1884, to Abraham Haas, for the southeast quarter of the northeast quarter, and the east half of the southeast quarter, and the southwest quarter of the southeast quarter of section 29, and the southeast quarter of the southwest quarter of section 21, township 1 south, range 2 west, S. B. M., 200 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $168.00. Deed issued Sept. 25, 1889, to Abraham Haas. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 200 acres of land described above.

Contract No. 9,307.

Issued Feb. 1, 1888, to Warren Hibbard, for the east half of the northeast quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80.00. Purchase price paid, $80.00; interest paid, $11.46. Deed issued April 8, 1892, to John Dessart. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 9,308.

Issued Feb. 1, 1888, to Warren Hibbard, for the west half of the northeast quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80.00. Purchase price paid, $80.00; interest paid, $7.73. Deed issued ———— to ————. Present owner of contract, Frank Blair. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 9,309.

Issued Feb. 1, 1888, to Warren Hibbard, for the east half of the northwest quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80.00. Purchase price paid, $80.00; interest paid, $7.73. Deed issued ———— to ————. Present owner of contract, Frank Blair. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 9,310.

Issued Feb. 1, 1888, to Warren Hibbard, for the west half of the northwest quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80.00. Purchase price paid, $80.00; interest paid, $10.76. Deed issued March 17, 1892, to Joseph Boardman. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 9,312.

Issued Feb. 1, 1888, to Warren Hibbard, for the west half of southeast quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80.00. Purchase price paid, $16.00; interest paid, $17.92. Deed issued ———— to ————. Present owner of contract, Calhoun Bryant. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 9,313.

Issued Feb. 1, 1888, to Warren Hibbard, for the east half of the southwest quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase

price, $80.00. Purchase price paid, $16.00; interest paid, $4.48. Deed issued ———— to ————. Present owner of contract, Warren Hibbard. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 9,314.

Issued Feb. 1, 1888, to Warren Hibbard, for the west half of the southwest quarter of section 23, township 1 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80.00. Purchase price paid, $80.00; interest paid, $3.23. Deed issued Sept. 8, 1892, to Katie B. Uber, undivided quarter, and George W. Maywood, undivided three-quarters. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 5,508.

Issued April 6, 1886, to E. P. Clyde, for the northeast quarter of section 25, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $780.00. Purchase price paid, $780.00; interest paid, $216.00. Deed issued April 1, 1891, to E. P. Clyde. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 2,799.

Issued June 20, 1883, to E. P. Clyde, for the east half of the southwest quarter, and the southeast quarter of section 25, township 1 south, range 2 west, S. B. M., 240 acres. Agreed purchase price, $720.00. Purchase price paid, $720.00; interest paid, $96.56. Deed issued Nov. 23, 1885, to E. P. Clyde Present owner of contract, ————.

Patent No. 2. Issued April 4, 1879, for 240 acres of land described above.

Contract No. 2,148.

Issued March 10, 1882, to M. H. Crafts, for the southwest quarter of the northeast quarter of section 29, and the southwest quarter of section 31, township 1 south, range 2 west, S. B. M., 200 acres. Agreed purchase price paid, $520.00. Purchase price paid, $520.00; interest paid, $148.90. Deed issued May 4, 1887, to H. C. Rolfe. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 200 acres of land described above.

Contract No. 2,058.

Issued Jan. 19, 1882, to Meyron H. Crafts, for the northwest quarter of section 31, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $112.00. Deed issued Jan. 28, 1887, to H. C. Rolfe. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,866.

Issued Sept. 29, 1885, to Thomas J. Flanagan, for the northeast quarter of section 33, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $320.00. Purchase price paid, $64.00; interest paid, $197.12. Deed issued ————, to ————. Present owner of contract, Thomas J. Flanagan. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,865.

Issued Sept. 29, 1885, to Thomas J. Flanagan, for the northwest quarter, and the south half of section 33, township 1 south, range 2 west, S. B. M., 480 acres. Agreed purchase price, $960.00. Purchase paid, $192.00; interest paid, $197.12. Deed issued ————, to ————. Present owner of contract, Thomas J. Flanagan. Patent No. 2. Issued April 4, 1879, for 480 acres of land described above.

Contract No. 4,297.

Issued Feb. 6, 1885, to E. P. Clyde, for the northeast quarter of section 35, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $960.00; interest paid, $119.72. Deed issued March 26, 1886, to E. P. Clyde. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,638.

Issued May 28, 1885, to F. M. Haws, for the northwest quarter of section 35, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $134.40. Deed issued June 4, 1890, to W. G. Lynn and W. J. S. Lynn. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 2,924.

Issued Dec. 3, 1883, to F. M. Haws, for the southwest quarter of section 35, township 1 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Pur-

chase price paid, $480.00; interest paid, $134.40. Deed issued Dec. 20, 1880, to W. G. Lynn and W. J. S. Lynn. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,914.

Issued Sept. 15, 1884, to Abraham Haas, for the northeast quarter of section 1, township 1 south, range 3 west, S. B. M., 162.49 acres. Agreed purchase price, $406.22. Purchase price paid, $406.22; interest paid, $114.15. Deed issued Sept. 25, 1889, to Abraham Haas. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 162.49 acres of land described above.

Contract No. 1,215.

Issued Sept. 20, 1881, to F. E. Brown, for the east half of the northwest quarter of section 1, township 1 south, range 3 west, S. B. M., 83.12 acres. Agreed purchase price, $207.80. Purchase price paid, $207.80; interest paid, $40.39. Deed issued March 9, 1885, to D. W. Parkhurst. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 83.12 acres of land described above.

Contract No. 796.

Issued March 16, 1880, to Alfred M. Aplin, for the west half of the northwest quarter of section 1, township 1 south, range 3 west, S. B. M., 84.37 acres. Agreed purchase price, $506.22. Purchase price paid, $506.22; interest paid, $202.50. Deed issued March 24, 1885, to Alfred M. Aplin. Present owner of contract, ————————.

Patent No. 2. Issued April 4, 1879, for 84.37 acres of land described above.

Contract No. 7,324.

Issued May 18, 1887, to Abraham Haas, for the northwest quarter of the southeast quarter, south half of the southeast quarter, south half of the southwest quarter of section 1, township 1 south, range 3 west, S. B. M., 200 acres. Agreed purchase price, $500.00. Purchase price paid, $500.00; interest paid, $140.00. Deed issued May 3, 1892, to Carl Raiss. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 200 acres of land described above.

Contract No. 2,336.

Issued June 23, 1882, to A. M. Aplin and F. E. Brown, for the northeast quarter of the southeast quarter of section 1, township 1 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $100.00; interest paid, $———. Deed issued July 6, 1882, to A. M. Aplin and F. E. Brown. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 1,216.

Issued Sept. 20, 1881, to F. E. Brown, for the north half of the southwest quarter of section 1, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $38.88. Deed issued March 9, 1885, to D. W. Parkhurst. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,595.

Issued Nov. 28, 1882, to Benjamin Van Leuven, for the southeast quarter of the northeast quarter of section 3, township 1 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $240.00. Purchase price paid, $240.00; interest paid, $———. Deed issued Dec. 18, 1882, to Benjamin Van Leuven. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 824.

Issued June 29, 1880, to John C. Weeks, for the northeast quarter of the northeast quarter of section 3, township 1 south, range 3 east, S. B. M., 46.35 acres. Agreed purchase price, $162.22. Purchase price paid, $162.22; interest paid, $———. Deed issued June 30, 1888, to John C. Weeks. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 46.35 acres of land described above.

Contract No. 1,031.

Issued March 19, 1881, to Mrs. A. M. McGee, for the southwest quarter of the northwest quarter of section 3, township 1 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $100.00 Purchase price paid, $100.00; interest paid, $———. Deed issued March 22, 1881, to Mrs. A. M. McGee. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 1,188.

Issued Sept. 9, 1881, to Mrs. Ann Maria McGee for the northeast quarter of the northwest quarter of section 3,

township 1 south, range 3 west, S. B. M., 46.15 acres. Agreed purchase price, $115.38. Purchase price paid, $115.38; interest paid, $———. Deed issued Sept. 14, 1881, to Mrs. Ann Maria McGee. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 46.15 acres of land described above.

Contract No. 2,632.

Issued Dec. 22, 1882, to Mrs. Ann Maria McGee, for the northwest quarter of the northwest quarter of section 3, township 1 south, range 3 west, S. B. M., 46.05 acres. Agreed purchase price, $115.12. Purchase price paid, $115.12; interest paid, $———. Deed issued Dec. 28, 1882, to Mrs. Ann Maria McGee. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 46.05 acres of land described above.

Contract No. 951.

Issued Dec. 4, 1880, to Vinton L. Mitchell, for the east half of the northeast quarter of section 5, township 1 south, range 3 west, S. B. M., 86.48 acres. Agreed purchase price, $864.80. Purchase price paid, $864.80; interest paid, $63.23. Deed issued March 28, 1882, to Walter J. Laycock. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 86.48 acres of land described above.

Contract No. 9,995.

Issued Dec. 18, 1888, to John F. Madden, for the north half of the southwest quarter, of the northeast quarter of section 5, township 1 south, range 3 west, S. B. M., 20 acres. Agreed purchase price, $240.00. Purchase price

paid, $240.00; interest paid, $58.71. Deed issued May 1, 1893, to Ame Wendelborn and Aaron Leipsic. Present owner of contract, ————. Issued ————, for 20 acres of land described above. Decree of U. S. Circuit Court, Nov. 1, 1886.

Contract No. 9,996.

Issued Dec. 18, 1888, to Jose D. Valencia, for the south half of the southwest quarter of the northeast quarter of section 5, township 1 south, range 3 west, S. B. M., 20 acres. Agreed purchase price, $240.00. Purchase price paid, $240.00; interest paid, $19.24. Deed issued Dec. 26, 1890, to Jose D. Valencia. Present owner of contract, ————. Issued ————, for 20 acres of land described above. Decree of U. S. Circuit Court, Nov. 1, 1886.

Contract No. 4,054.

Issued Oct. 25, 1884, to John W. Downs, for the northwest quarter of the northeast quarter of section 5, township 1 south, range 3 west, S. B. M., 43.57 acres. Agreed purchase price, $544.62. Purchase price paid, $544.62; interest paid, $———. Quitclaim deed issued Oct. 28, 1884, to John W. Downs. Present owner of contract, ————. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 3,915.

Issued Sept. 15, 1884, to Abraham Haas, for the north half of the southeast quarter of section 5, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest

paid, $72.66. Deed issued June 13, 1887, to Oscar Newburg. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,218.

Issued Jan. 23, 1885, to L. W. Beach, for the south half of the southeast quarter of section 5, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $266.57. Deed issued Jan. 27, 1895, to C. M. Wright. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,916.

Issued Sept. 15, 1884, to Abraham Haas, for the north half of the northeast quarter, and the north half of the northwest quarter of section 9, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $112.44. Deed issued Sept. 25, 1889, to Abraham Haas. Present owner of contract,————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 6,159.

Issued Dec. 20, 1886, to W. H. Carlson, for the south half of the northeast quarter, the south half of the northwest quarter and the south half of section 9, township 1 south, range 3 west, S. B. M., 480 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $134.30. Deed issued ————, to ————. Present owner of contract, W. H. Carlson. Patent No. 2. Issued April 4, 1879, for 480 acres of land described above.

Contract No. 7,329.

Issued May 18, 1887, to Abraham Haas, for the northwest quarter of section 11, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price *paid*, $400.00. Purchase price paid, $400.00; interest paid, $112.00. Deed issued June 16, 1892, to Carl Raiss. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 7,095.

Issued May 10, 1887, to Rev. C. A. Stone, for the southwest quarter of section 11, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $134.40. Deed issued ————, to ————. Present owner of contract, Carrie Addeman. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 1,070.

Issued April 18, 1889, to M. Kellehar and C. Elliott, for the north half of the northeast quarter, and the north half of the northwest quarter of section 13, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $69.40. Deed issued May 31, 1892, to Will W. Beach. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 7,368.

Issued May 20, 1887, to C. F. Smurr, for the south half of the northeast —, and the south half of the northwest

quarter of section 13, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $224.00. Deed issued————————, to ————————. Present owner of contract, C. F. Smurr. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,917.

Issued Sept. 15, 1884, to Abraham Haas, for the south half of the southeast quarter, and the south half of the southwest quarter of section 13, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $880. Purchase price paid, $880; interest paid, $133.60. Deed issued June 20, 1887, to Abraham Haas. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 5,860.

Issued August 18, 1886, to J. S. Edwards, and W. N. Chamblin, for the north half of the southeast quarter of section 13, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $18.68. Deed issued June 27, 1887, to J. S. Edwards and W. N. Chamblin. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 5,861.

Issued Aug. 18, 1886, to J. S. Edwards and W. N. Chamblin, for the north half of the southwest quarter of section 3, township 1 south, range 3 west, S. B. M., 80

acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $22.40. Deed issued June 27, 1887, to J. S. Edwards and W. N. Chamblin. Present owner of contract ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,371.

Issued Aug. 18, 1882, to Gustavus L. Simmons, for the south half of the southeast quarter of section 15, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $300; interest paid, $300.14. Deed issued May 8, 1889, to Gustavus L. Simmons. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,372.

Issued Aug. 18, 1882, to Gustavus L. Simmons, for the south half of the southwest quarter of section 15, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $300.15. Deed issued May 8, 1889, to Gustavus L. Simmons. Present owner of contract ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,350.

Issued July 17, 1882, to Oscar E. Johnson, for the south half of section 23, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $720. Purchase price paid, $720; interest paid, $190.06. Deed issued April 14, 1887, to William R. Tolles. Present owner

of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,351.

Issued July 17, 1882, to Oscar E. Johnson, for the south half of the northwest quarter of section 23, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $211.19. Deed issued April 14, 1887, to William R. Tolles. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,354.

Issued July 19, 1882, to Gustavus L. Simmons, for the north half of the northeast quarter of section 23, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $720. Purchase price paid, $720; interest paid, $273.41. Deed issued May 8, 1889, to Gustavus L. Simmons. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,355.

Issued July 19, 1882, to Gustavus L. Simmons, for the north half of the northwest quarter of section 23, township 1 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $303.75. Deed issued May 8, 1889, to Gustavus L. Simmons. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,344.

Issued July 10, 1882, to Hugh Henry Cole, for the north half of section 31, township 1 south, range 3 west, S. B. M., 317 acres. Agreed purchase price, $1,585. Purchase price paid, $1,585; interest paid, $410.51. Deed issued March 5, 1887, to Hugh Henry Cole. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 317 acres of land described above.

Contract No. 3,014.

Issued Jan. 7, 1884, to James A. Cole, for the southeast quarter of section 31, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $84.02. Deed issued March 1, 1887, to James A. Cole. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 6,169.

Issued Dec. 23, 1886, to F. W. Richardson and C. C. Miller, for the southwest quarter of section 31, township 1 south, range 3 west, S. B. M., 159 acres. Agreed purchase price, $954. Purchase price paid, $954; interest paid, $284.92. Deed issued April 20, 1892, to F. W. Richardson and Mary A. Miller. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 159 acres of land described above.

Contract No. 1,067.

Issued May 9, 1881, to E. G. Judson and F. E. Brown, for the northeast quarter of section 33, township 1 south,

range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $26.09. Deed issued Feb. 14, 1882, to E. G. Judson and F. E. Brown. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 1,068.

Issued May 9, 1881, to E. G. Judson and F. E. Brown, for the southeast quarter of section 33, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $26.09. Deed issued Feb. 14, 1882, to E. G. Judson and F. E. Brown. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,479.

Issued April 29, 1884, to George W. Meade, for the northwest quarter of section 33, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $308.15. Deed issued Oct. 21, 1887, to George W. Meade. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,537.

Issued Oct. 27, 1882, to Mrs. Ellen B. Seymour, for the southwest quarter of section 33, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $177.20. Deed issued Oct. 21, 1887, to Anna Meade. Present owner of

contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 1,036.

Issued March 23, 1881, to E. G. Judson and F. E. Brown, for the northeast quarter and the southwest quarter of section 35, township 1 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,120. Purchase price paid, $1,120; interest paid, $295.60. Deed issued Dec. 19, 1885, to E. G. Judson and F. E. Brown. Present owner of contract ————————. Patent No. 2. Issued April 4, 1879, for 320 acres of land described above.

Contract No. 1,035.

Issued March 23, 1881, to E. G. Judson and F. E. Brown, for the northwest quarter of section 35, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $49.28. Deed issued March 4, 1882, to E. G. Judson and F. E. Brown. Present owner of contract ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,203.

Issued March 20, 1882, to E. G. Judson and F. E. Brown, for the southeast quarter of section 35, township 1 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $134.40. Deed issued April 14, 1887, to E. G. Judson and F. E. Brown. Present owner of contract ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,502.

Issued Oct. 20, 1882, to Henry C. Yager, for the west half of the northeast quarter and lots 7 and 8, section 7, township 1 south, range 4 west, S. B. M., 129.48 acres. Agreed purchase price, $1,295.68. Purchase price paid, $1,295.68; interest paid, $304.84. Deed issued Dec. 29, 1886, to George A. Ferguson. Present owner of contract ————————. Patent No. 4. Issued June 26, 1882, for 129.48 acres of land described above.

Contract No. 5,283.

Issued Feb. 1, 1886, to William J. Guthrie, for the east half of the northwest quarter of section 7, township 1 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $40.70. Deed issued Dec. 29, 1886, to William J. Guthrie. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 791.

Issued March 11, 1880, to Henry Goodcell, Sr., for the northwest quarter of the southeast quarter and lot 6, section 7, township 1 south, range 4 west, S. B. M., 60.27 acres. Agreed purchase price, $602.70. Purchase price paid, $602.70; interest paid, $96.44. Deed issued March 21, 1882, to Henry Goodcell, Sr. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 790.

Issued March 11, 1880, to John Anderson, for the southwest quarter of the southwest quarter and lot 5, section 7, township 1 south, range 4 west, S. B. M., 57.29 acres. Agreed purchase price, $572.90. Purchase price paid, $572.90; interest paid, $45.83. Deed issued March 17, 1881, to John Andreson. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 57.29 acres of land described above.

Contract No. 4,470.

Issued March 23, 1885, to Joseph J. Deming, for the northeast quarter of the southwest quarter of section 7, township 1 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $39.35. Deed issued Jan. 19, 1887, to Joseph J. Deming. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 4,471.

Issued March 23, 1885, to William J. Guthrie, for the southeast quarter of the southwest quarter of section 7, township 1 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued March 28, 1890, to Thomas Gilbert. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 5,284.

Issued Feb. 1, 1886, to Robert B. Herron, for the west half of the northwest quarter of section 7, township 1 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $40.70. Deed issued Dec. 29, 1886, to Robert B. Herron. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 5,282.

Issued Feb. 1, 1886, to Joseph J. Deming, for lots 3 and 4 in the southwest quarter of section 7, township 1 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $11.19. Deed issued Jan. 14, 1887, to Joseph J. Deming. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 809.

Issued May 12, 1880, to William Goldkofer, for the northeast quarter of the northwest quarter; north half of the northeast quarter of section 19, township 1 south, range 4 west, S. B. M., 83.56 acres. Agreed purchase price, $835.60. Purchase price paid, $835.60; interest paid, $219. Deed issued Jan. 27, 1885, to William Goldkofer. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 83.56 acres of land described above.

Contract No. 789.

Issued March 11, 1890, to George Wilson, for the southeast quarter of the northwest quarter; northeast

quarter of the southwest quarter and lots 6 and 7, of section 19, township 1 south, range 4 west, S. B. M., 160.30 acres. Agreed purchase price, $1,603. Purchase price paid, $1,603; interest paid, $641.20. Deed issued March 24, 1885, to George Wilson. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160.30 acres of land described above.

Contract No. 2,145.

Issued March 7, 1882, to Pacific Improvement Company, for the southeast quarter of the southwest quarter and lots 1, 2, 3, 4 and 5 of section 19, township 1 south, range 4 west, S. B. M., 236.74 acres. Agreed purchase price, $1,183.70. Purchase price paid, $1,183.70; interest paid, $——. Deed issued March 7, 1882, to Pacific Improvement Company. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 236.74 acres of land described above.

Contract No. 3,897.

Issued Sept. 2, 1884, to Albert J. Allen, for lot 1 of the south half of the northeast quarter; southeast quarter of the northwest quarter and the southeast quarter of section 33, township 1 south, range 4 west, S. B. M., 310.78 acres. Agreed purchase price, $776.95. Purchase price paid, $776.95; interest paid, $152.74. Deed issued April 3, 1888, to George B. Pickett and James B. Stevenson. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 310.78 acres of land described above.

Contract No. 3,511.

Issued May 2, 1884, to George M. Hippee and Samuel Merrill, for the southwest quarter of section 33, township 1 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $560. Purchase price paid, $560; interest paid, $60.98. Deed issued April 23, 1886, to George M. Hippee and Samuel Merrill. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 10,698.

Issued Feb. 12, 1891, to Mrs. S. A. Poole, for lots 2, 3 and 4 of section 33, township 1 south, range 4 west, S. B. M., 61.32 acres. Agreed purchase price, $367.92. Purchase price paid, $367.92; interest paid, $——. Quitclaim deed issued Feb. 18, 1891, to Mrs. S. A. Poole. Present owner of contract, ————. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 4,560.

Issued April 30, 1885, to A. A. Courteney, for fractional northeast quarter of section 35, township 1 south, range 4 west, S. B. M., 158.47 acres. Agreed purchase price, $553.11. Purchase price paid, $553.11; interest paid, $128.19. Deed issued July 16, 1889, to A. A. Courteney. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 158.47 acres of land described above.

Contract No. 11,323.

Issued Dec. 8, 1893, to Albert E. Parker, for fractional northwest quarter of section 35, township 1 south, range 4 west, S. B. M., 159.92 acres. Agreed purchase price, $399.80. Purchase price paid, $399.80; interest paid, $7.55. Deed issued ————, to ————. Present owner of contract, Albert E. Parker. Patent No. 31. Issued Feb. 12, 1896, for 159.92 acres of land described above.

Contract No. 11,404.

Issued Oct. 19, 1895, to S. B. Wright, for fractional south half of section 35, township 1 south, range 4 west, S. B. M., 337.50 acres. Agreed purchase price, $843.75. Purchase price paid, $843.75; interest paid, $24.10. Deed issued May 11, 1896, to George W. Scott. Present owner of contract, ————. Patent No. 31. Issued Feb. 12, 1896, for 337.50 acres of land described above.

Contract No. 10,747.

Issued May 18, 1891, to B. F. Butler, for lots 5, 6, and 7 of section 25, township 1 south, range 5 west, S. B. M., 70.35 acres. Agreed purchase price, $703.50. Purchase price paid, $140.70; interest paid, $118.20. Deed issued ————, to ————. Present owner of contract, Mrs. Bella Butler. Patent No. 25. Issued Aug. 15, 1894, for 70.35 acres of land described above.

Contract No. 10,755.

Issued May 21, 1891, to M. C. Butterfield, for lots 8, 9, and 12 of section 25, township 1 south, range 5 west, S.

B. M., 36.98 acres. Agreed purchase price, $369.80. Purchase price paid, $73.96; interest paid, $103.50. Deed issued ————, to ————. Present owner of contract, M. C. Butterfield. Patent No. 25. Issued Aug. 15, 1894, for 36.98 acres of land described above.

Contract No. 2,751.

Issued April 18, 1883, to P. J. Stockman, for lots 3 and 4 of the southwest quarter of section 25, township 1 south, range 5 west, S. B. M., 31.41 acres. Agreed purchase price, $78.53. Purchase price paid, $78.53; interest paid, $———. Deed issued July 10, 1883, to P. J. Stockman. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 31.41 acres of land described above.

Contract No. 2,764.

Issued May 3, 1883, to James Noel, for the fractional northwest quarter of section 31, township 1 south, range 5 west, S. B. M., 161.68 acres. Agreed purchase price, $424.41. Purchase price paid, $424.41; interest paid, $23.77. Deed issued April 25, 1884, to James Noel. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 161.68 acres of land described above.

Contract No. 10,683.

Issued Jan. 9, 1891, to Frank Walker, for the north half of the northeast quarter of section 31, township 1 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $110.51. Deed issued Feb. 28, 1895, to Frank Walker. Present

owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 10,684.

Issued Jan. 9, 1891, to J. H. Cummins, for the south half of the northeast quarter of section 31, township 1 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $96; interest paid, $26.88. Deed issued ————————, to ————————. Present owner of contract, J. H. Cummins. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 2,746.

Issued April 12, 1883, to P. J. Stockman, for lots 1 and 2 of the northeast quarter of section 33, township 1 south, range 5 west, S. B. M., 67.17 acres. Agreed purchase price, $235.09. Purchase price paid, $235.09; interest paid, $107.50. Deed issued March 4, 1889, to P. J. Stockman. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 67.17 acres of land described above.

Contract No. 10,749.

Issued May 18, 1891, to H. S. Button, for lot 3 of section 33, township 1 south, range 5 west, S. B. M., 41.52 acres. Agreed purchase price, $415.20. Purchase price paid, $415.20; interest paid, $116.25. Deed issued May 30, 1896, to J. P. Kiler. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 41.52 acres of land described above.

Contract No. 10,762.

Issued May 27, 1891, to H. S. Button, for the southeast quarter of the northeast quarter, and lots 4 and 5 of section 33, township 1 south, range 5 west, S. B. M., 90.89 acres. Agreed purchase price, $908.90. Purchase price paid, $908.90; interest paid, $149.50. Deed issued ——, to ——————. Present owner of contract, H. S. Button. Patent No. 25. Issued Aug. 15, 1894, for 90.89 acres of land described above.

Contract No. 10,751.

Issued May 18, 1891, to Miss Bertha Choate, for the south half of the northwest quarter of section 33, township 1 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $224. Deed issued ——————, to ——————. Present owner of contract, Walter A. Choate. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 10,750.

Issued May 18, 1891, to Miss Bertha Choate, for the north half of the northwest quarter of section 33, township 1 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $89.60. Deed issued ——————, to ————, Present owner of contract, Miss Bertha Choate. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 10,748.

Issued May 18, 1891, to A. B. Hotchkiss, for the northwest quarter of the southeast quarter, and lots 6 and 7 of section 33, township 1 south, range 5 west, S. B. M., 65.03 acres. Agreed purchase price, $650.30. Purchase price paid, $130.06; interest paid, $36.42. Deed issued ————, to ————. Present owner of contract, A. B. Hotchkiss. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 10,752.

Issued May 18, 1891, to Miss Bertha Choate, for the north half of the southwest quarter of section 33, township 1 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $960. Purchase price paid, $192; interest paid, $161.28. Deed issued ————, to ————. Present owner of contract, Miss Bertha Choate. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 10,760.

Issued May 25, 1891, to Miss Bertha Choate, for the southwest quarter of the southwest quarter and lot 8 of section 33, township 1 south, range 5 west, S. B. M., 75.70 acres. Agreed purchase price, $832.70. Purchase price paid, $166.54; interest paid, $279.48. Deed issued ————, to ————. Present owner of contract, Frank S. Hyde. Patent No. 25. Issued Aug. 15, 1894, for 75.70 acres of land described above.

Contract No. 10,753.

Issued May 18, 1891, to J. S. Wheeler, for lots 1 and 2 of section 35, township 1 south, range 5 west, S. B. M., 38.58 acres. Agreed purchase price, $462.96. Purchase price paid, $92.59; interest paid, $103.68. Deed issued ————, to ————. Present owner of contract, J. S. Wheeler. Patent No. 25. Issued Aug. 15, 1894, for 38.58 acres of land described above.

Contract No. 10,754.

Issued May 18, 1891, to John E. Campbell, for lot 3 of section 35, township 1 south, range 5 west, S. B. M., 43.55 acres. Agreed purchase price, $435.50. Purchase price paid, $87.10; interest paid, $146.34. Deed issued ——, to ————. Present owner of contract, Calvin Ogburn. Patent No. 25. Issued Aug. 15, 1894, for 43.55 acres of land described above.

Contract No. 2,418.

Issued Sept. 23, 1882, to Geo. Chaffey, Jr., and W. B. Chaffey, for the fractional northeast quarter of section 5, township 1 south, range 6 west, S. B. M., 167 acres. Agreed purchase price, $584.50. Purchase price paid, $584.50; interest paid, $———. Deed issued Oct. 5, 1882, to Geo. Chaffey, Jr., and W. B. Chaffey. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 167 acres of land described above.

Contract No. 6,073.

Issued Nov. 22, 1886, to P. J. Stockman, for the fractional northwest quarter of section 5, township 1 south,

range 6 west, S. B. M., 175.27 acres. Agreed purchase price, $1,752.70. Purchase price paid, $1,752.70; interest paid, $414.79. Deed issued ————————, to ————————. Present owner of contract, Mathew Byrne. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 5,728.

Issued June 25, 1886, to W. Taylour English, for lots 12 and 13 of section 5, township 1 south, range 6 west, S. B. M., 81.64 acres. Agreed purchase price, $816.40. Purchase price paid, $163.28; interest paid, $457.10. Deed issued ————————, to ————————. Present owner of contract, Mrs. H. J. English. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 5,871.

Issued Aug. 24, 1886, to N. B. Bradley and H. M. Loud, for the west half of the southeast quarter of section 5, township 1 south, range 6 west, S. B. M., 81.18 acres. Agreed purchase price, $811.80. Purchase price paid, $162.36; interest paid, $454.60. Deed issued ————————, to ————————. Present owner of contract, N. B. Bradley and H. M. Loud. Patent No. ———. Issued ————————, for ———acres of land described above.

Contract No. 5,872.

Issued Aug. 24, 1886, to N. B. Bradley and H. M. Loud, for the fractional southwest quarter of section 5, township 1 south, range 6 west, S. B. M., 160.94 acres. Agreed purchase price, $1,609.40. Purchase price paid, $321.88;

interest paid, $901.20. Deed issued ————, to ————. Present owner of contract, N. B. Bradley and H. M. Loud. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 5,372.

Issued Feb. 26, 1886, to Chas. W. Smith, for the east half of section 7; the west half of the northwest quarter and the west half of the southwest quarter of section 17; the northwest quarter and the east half of section 19, township 1 south, range 6 west, S. B. M., 946.83 acres. Agreed purchase price, $8,668.30. Purchase price paid, $8,668.30; interest paid, $3,221.27. Deed issued Oct. 17, 1892, to Charles W. Smith for the northwest quarter and the east half of section 19. Present owner of contract, Chas. W. Smith, for the east half of section 7; the west half of the northwest quarter and the west half of the southwest quarter of section 17. Patent No. 18. Issued Oct. 7, 1891, for 466.83 acres of land described above.

Contract No. 5,248.

Issued Jan. 27, 1886, to Hugh T. McCrabbe, for the fractional northwest quarter of section 7, township 1 south, range 6 west, S. B. M., 153.20 acres. Agreed purchase price, $1,532. Purchase price paid, $306.40; interest paid, $686.32. Deed issued ————, to ————. Present owner of contract, John Weber, administrator for estate of Harriet Shaw, deceased. Patent No. ———. Issued ————, for ———acres of land described above.

Contract No. 5,249.

Issued Jan. 27, 1886, to Hugh T. McCrabbe, for the fractional southwest quarter of section 7, township 1 south, range 6 west, S. B. M., 151.60 acres. Agreed purchase price, $1,516. Purchase price paid, $302.20; interest paid, $679.12. Deed issued ———, to ———. Present owner of contract, John Weber, administrator of estate of Harriet Shaw, deceased. Patent No. ———. Issued ———, for ———acres of land described above.

Contract No. 2,627.

Issued Dec. 20, 1882, to George Chaffey, Jr., and W. B. Chaffey, for the northwest quarter of section 9, township 1 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $153.06. Deed issued July 18, 1887, to George Chaffey, Jr., and W. B. Chaffey. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 5,448.

Issued March 15, 1886, to George W. Sessions, for the northeast quarter of the northeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ———, to ———. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 5,449.

Issued March 15, 1886, to George W. Sessions, for the northwest quarter of the northeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 5,450.

Issued March 15, 1886, to George W. Sessions, for the southeast quarter of the northeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 5,451.

Issued March 15, 1886, to George W. Sessions, for the southwest quarter of the northeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 5,452.

Issued March 15, 1886, to George W. Sessions, for the northeast quarter of the northwest quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————, to ————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 5,453.

Issued March 15, 1886, to George W. Sessions, for the southeast quarter of the northwest quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————, to ————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 5,429.

Issued March 10, 1886, to George W. Sessions, for the northeast quarter of the southeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————, to ————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 5,430.

Issued March 10, 1886, to George W. Sessions, for the northwest quarter of the southeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 5,431.

Issued March 10, 1886, to George W. Sessions, for the southeast quarter of the southeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 5,432.

Issued March 10, 1886, to George W. Sessions, for the southwest quarter of the southeast quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————————. Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for —— acres of land described above.

Contract No. 5,433.

Issued March 10, 1886, to George W. Sessions, for the northeast quarter of the southwest quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest Present owner of contract, Etiwanda Improvement Co. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 5,434.

Issued March 10, 1886, to George W. Sessions, for the southeast quarter of the southwest quarter of section 17, township 1 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ———————— to ————————. Present owner of contract, Etiwanda Improvement Company. Patent No. —. Issued ————————, for ——— acres of land described above.

Contract No. 10,432.

Issued Sept. 1, 1890, to C. W. Smith, for fractional southwest quarter of section 19, township 1 south, range 6 west, S. B. M., 144.81 acres. Agreed purchase price, $1,086.07. Purchase price paid, $1,086.07; interest paid, $34.22. Deed issued March 26, 1891, to C. W. Smith. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 144.81 acres of land described above.

Contract No. 3,178.

Issued Feb. 13, 1884, to George D. Rowan and Hugh L. Macneil, for the northwest quarter of section 29, township 1 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $560. Purchase price paid, $560; interest paid, $60.10. Deed issued Jan. 16, 1886, to Ivory Bean. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,181.

Issued Feb. 15, 1884, to Daniel Desmond and William Thorpe, for the southwest quarter of the northwest quarter and the west half of the southwest quarter of section 31, township 1 south, range 6 west, S. B. M., 94.44 acres. Agreed purchase price, $267.90. Purchase price paid, $267.90; interest paid, $48.13. Deed issued May 19, 1887, to Joseph Mullaly and William Thorpe. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 94.44 acres of land described above.

Contract No. 5,862.

Issued Aug. 18, 1886, to William Declez, for the northwest quarter of section 35, township 1 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $520. Purchase price paid, $520; interest paid, $73.30. Deed issued Feb. 19, 1889, to William Declez. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 6,312.

Issued Feb. 9, 1887, to William Declez, for the northeast quarter of section 35, township 1 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $44.80. Deed issued Feb. 18, 1889, to William Declez. Present owner of contract, ————. Patent No. 11. Issued Oct. 26, 1888, for 160 acres of land described above.

Contract No. 6,313.

Issued Feb. 9, 1887, to William Declez, for the southeast quarter of section 35, township 1 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $44.80. Deed issued Feb. 19, 1889, to William Declez. Present owner of contract, ————. Patent No. 11. Issued Oct. 26, 1888, for 160 acres of land described above.

Contract No. 6,314.

Issued Feb. 9, 1887, to William Declez, for the southwest quarter of section 35, township 1 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $44.80. Deed issued Feb. 19, 1889, to William Declez. Present owner of contract, ————. Patent No. 11. Issued Oct. 26, 1888, for 160 acres of land described above.

Contract No. 11,201.

Issued Sept. 7, 1892, to C. F. Heinzeman, for fractional west half of the northeast quarter of the northeast quar-

ter of section 1, township 1 south, range 7 west, S. B. M., 20.06 acres. Agreed purchase price, $135.45. Purchase price paid, $135.45; interest paid, $——. Quitclaim deed issued Sept. 8, 1892, to C. F. Heinzeman. Present owner of contract, ——————. Patent No. —. Issued ——— ———, for ——— acres of land described above.

Contract No. 11,076.

Issued Feb. 26, 1892, to William Pridham, for the west half of lot 2 of the northeast quarter, the east half of the east half of lot 2 of the northwest quarter, the west half of the west half of lot 2 of the northwest quarter of section 1, township 1 south, range 7 west, S. B. M., 81.08 acres. Agreed purchase price, $547.29. Purchase price paid, $547.29; interest paid, $——. Quitclaim deed issued March 14, 1892, to William Pridham. Present owner of contract, ——————. Patent No. —. Issued ——— ———, for ——— acres of land described above.

Contract No. 11,077.

Issued Feb. 26, 1892, to L. L. Ward, for the north half of the northwest quarter of the southeast quarter of section 1, township 1 south, range 7 west, S. B. M., 20 acres. Agreed purchase price, $135. Purchase price paid, $135; interest paid, $——. Quitclaim deed issued March 14, 1892, to L. L. Ward. Present owner of contract, ——— ———. Patent No. —. Issued ——————, for ——— acres of land described above.

Contract No. 11,081.

Issued March 8, 1892, to M. C. Hamer, for the south half of the northwest quarter of the southeast quarter of section 1, township 1 south, range 7 west, S. B. M., 20 acres. Agreed purchase price, $135. Purchase price paid, $135; interest paid, $——. Quitclaim deed issued March 14, 1892, to M. C. Hamer. Present owner of contract, ——— ———. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 2,833.

Issued September 13, 1883, to J. S. Slauson, for all fractional section 7, all of section 17 and all fractional 19, township 1 south, range 7 west, S. B. M., 1,757.68 acres. Agreed purchase price, $4,393.20. Purchase price paid, $4,393.20; interest paid, $——. Quitclaim deed issued Sept. 21, 1883, to J. S. Slauson. Present owner of contract, ————. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 10,413.

Issued Aug. 25, 1890, to Mary F. Lynch, for the southwest quarter of the southeast quarter of section 8, township 1 south, range 7 west, S. B. M., 40 acres. Agreed purchase price, $250. Purchase price paid, $250; interest paid, $——. Deed issued June 27, 1892, to Mary F. Lynch. Present owner of contract, ————. Patent No. 24. Issued June 16, 1892, for 40 acres of land described above. Selected under act of June 22, 1874, in lieu of the southwest quarter of the northwest quarter of section 35,

township 4 south, range 6 west, S. B. M. Abandoned by the company in favor of Josefa Montalva de Serrano.

Contract No. 2,338.

Issued June 30, 1882, to M. L. Wicks, for the north half of section 21, township 1 south, range 7 west, S. B. M., 320 acres. Agreed purchase price, $1,400. Purchase price paid, $1,400; interest paid, $397.44. Deed issued Aug. 8, 1887, to Pomona Land and Water Company. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 320 acres of land described above.

Contract No. 2,319.

Issued May 18, 1882, to M. L. Wicks, for the south half of section 21, the northwest quarter of section 27, the north half of the north half of the southeast quarter, the northeast quarter of the southwest quarter, lots 2, 3 and 4 of section 29, township 1 south, range 7 west, S. B. M., 939.80 acres. Agreed purchase price, $4,499. Purchase price paid, $4,499; interest paid, $1,144.92. Deed issued Nov. 18, 1886, to Pomona Land and Water Company. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 939.80 acres of land described above.

Contract No. 2,425.

Issued September 29, 1882, to John Archibald, for the northwest quarter of the northwest quarter of section 23, township 1 south, range 7 west, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $——. Deed issued Oct. 5, 1882, to John Archibald.

Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,339.

Issued June 30, 1882, to Robert Strong, for the southwest quarter of section 27, township 1 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $134.40. Deed issued June 30, 1885, to Edward E. Perley. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,837.

Issued Sept. 17, 1883, to C. Newman, for the northwest quarter of the northeast quarter, the northeast quarter of the northwest quarter and lot 1 of the northwest quarter of section 33, township 1 south, range 7 west, S. B. M., 96 acres. Agreed purchase price, $576. Purchase price paid, $576; interest paid, $163.29. Deed issued Oct. 17, 1888, to James Luckenbach. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 96 acres of land described above.

Contract No. 2,848.

Issued Sept. 25, 1883, to C. Newman, for the northeast quarter of the northeast quarter and the southeast quarter of the northwest quarter of section 33, township 1 south, range 7 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $59.96. Deed issued Dec. 29, 1885, to C. Newman. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,847.

Issued Sept. 25, 1883, to O. J. Newman, for the north half of the southeast quarter and the south half of the northeast quarter of section 33, township 1 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $270.88. Deed issued Oct. 17, 1888, to James S. Luckenbach. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,846.

Issued Sept. 25, 1883, to W. W. Soper, for the south half of the southeast quarter and the east half of the southwest quarter of section 33, township 1 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $270.88. Deed issued Oct. 17, 1888, to James S. Luckenbach. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,997.

Issued Dec. 31, 1883, to Milton Santee, for lots 2, 3 and 4 of section 33, township 1 south, range 7 west, S. B. M., 48 acres. Agreed purchase price, $288. Purchase price paid, $288; interest paid, $60.32. Deed issued Nov. 17, 1887, to C. Cabot. Present owner of contract, ———— ——. Patent No. 2. Issued April 4, 1879, for 48 acres of land described above.

Contract No. 4,658.

Issued June 8, 1885, to J. E. Wilshire, for the northeast quarter, the north half of the northwest quarter, the southeast quarter of the northwest quarter of section 1, township 2 south, range 1 west, S. B. M., 281.34 acres. Agreed purchase price, $562.68. Purchase price paid, $562.68; interest paid, $156.25. Deed issued March 18, 1892, to J. E. Wilshire. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 281.34 acres of land described above.

Contract No. 4,657.

Issued June 8, 1885, to C. W. Butler, for the southwest quarter of the northwest quarter of section 1, township 2 south, range 1 west, S. B. M., 39.61 acres. Agreed purchase price, $79.22. Purchase price paid, $79.22; interest paid, $——. Deed issued March 10, 1892, to Mrs. Louisa Butler. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 39.61 acres of land described above.

Contract No. 4,660.

Issued June 8, 1885, to J. H. Dixon, for the south half of section 1, township 2 south, range 1 west, S. B. M., 313.76 acres. Agreed purchase price, $470.64 Purchase price paid, $470.64; interest paid, $216.58. Deed issued Sept. 26, 1893, to A. H. Judson. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 313.76 acres of land described above.

Contract No. 5,272.

Issued Jan. 29, 1886, to Warren B. Josselyn, for the southwest quarter of the southeast quarter of section 5, township 2 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $20; interest paid, $5.60. Deed issued ———— to ————. Present owner of contract, Warren B. Josselyn. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 5,293.

Issued Feb. 8, 1886, to G. A. Atwood, for the northeast quarter of the northeast quarter of section 7, township 2 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $28. Deed issued Feb. 14, 1891, to G. A. Atwood. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 2,648.

Issued Jan. 22, 1883, to E. J. Thomas, for the east half of the southeast quarter of section 7, and the northwest quarter of section 17, township 2 south, range 1 west, S. B. M., 240 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $———. Deed issued Jan. 26, 1883, to E. J. Thomas. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 240 acres of land described above.

Contract No. 4,596.

Issued May 11, 1885, to Howard Bledsoe, for the north half of the northwest quarter of section 9, township 2

south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $27.15. Deed issued Jan. 31, 1888, to Howard Bledsoe. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,012.

Issued Jan. 4, 1884, to H. J. Stevenson, for the southeast quarter of section 9, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $265.43. Deed issued Dec. 11, 1889, to Wm. Dryden. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,409.

Issued April 9, 1884, to H. J. Stevenson, for the southeast quarter of the southwest quarter of section 9, township 2 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $110. Purchase price paid, $110; interest paid, $34.91. Deed issued Dec. 11, 1889, to Wm. Dryden. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 10,887.

Issued Oct. 14, 1891, to Max Goldberg, for the west half of the southwest quarter of section 9, township 2 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $44.80. Deed issued ————————, to ————————. Present

owner of contract, Max Goldberg. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,662.

Issued June 8, 1885, to H. J. Stevenson, for all the fractional section 11, township 2 south, range 1 west, S. B. M., 612.92 acres. Agreed purchase price, $612.92. Purchase price paid, $612.92; interest paid, $68.64. Deed issued March 28, 1892, to A. H. Judson. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 612.92 acres of land described above.

Contract No. 9,346.

Issued Feb. 11, 1888, to Warren Hibbard, for the fractional northeast quarter of section 13, township 2 south, range 1 west, S. B. M., 154.74 acres. Agreed purchase price, $77.37. Purchase price paid, $77.37; interest paid, $32.61. Deed issued Aug. 28, 1895, to Horace A. Bunce and Hattie S. Bunce. Present owner of contract, ———. Patent No. 25. Issued Aug. 15, 1894, for 154.74 acres of land described above.

Contract No. 9,347.

Issued Feb. 11, 1888, to Warren Hibbard, for the northwest quarter of section 13, township 2 south, range 1 west, S. B. M., 156.98 acres. Agreed purchase price, $78.49. Purchase price paid, $78.49; interest paid, $21.95. Deed issued Sept. 22, 1894, to Louisa W. Birdsall. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 156.98 acres of land described above.

Contract No. 9,348.

Issued Feb. 11, 1888, to Warren Hibbard, for the southeast quarter of section 13, township 2 south, range 1 west, S. B. M., 152.26 acres. Agreed purchase price, $76.13. Purchase price paid, $15.23; interest paid, $21.30. Deed issued ————, to ————. Present owner of contract, Caroline C. Mathewson. Patent No. 25. Issued Aug. 15, 1894, for 152.26 acres of land described above.

Contract No. 9,349.

Issued Feb. 11, 1888, to Warren Hibbard, for the fractional southwest quarter of section 13, township 2 south, range 1 west, S. B. M., 158.98 acres. Agreed purchase price, $79.49. Purchase price paid, $79.49; interest paid, $19.86. Deed issued Nov. 3, 1894, to Louisa W. Birdsall, undivided six-eighths; Serenah Craig, undivided one-eighth; Myra Deckes, undivided one-eighth. Present owner of contract, ————. Patent No. 25. Issued Aug. 15, 1894, for 158.98 acres of land described above.

Contract No. 11,294.

Issued July 12, 1893, to H. A. Unruh, for the southeast quarter of the northeast quarter, and the west half of the northeast quarter of section 15, township 2 south, range 1 west, S. B. M., 120 acres. Agreed purchase price, $300. Purchase price paid, $60; interest paid, $50.40. Deed issued ————, to ————. Present owner of contract, H. A. Unruh. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 2,704.

Issued Feb. 14, 1883, to Thomas Mellen, for the northeast quarter of the northeast quarter and the northwest quarter of the northwest quarter of section 15, township 2 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $76.30. Deed issued Dec. 11, 1889, to Wm. Dryden. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 9,338.

Issued Feb. 9, 1888, to Mrs. Helen M. Mellen, for the northeast quarter of the northwest quarter, and the south half of the northwest quarter of section 15, township 2 south, range 1 west, S. B. M., 120 acres. Agreed purchase price, $300. Purchase price paid, $100; interest paid, $128.80. Deed issued ————————, to ————————. Present owner of contract Mrs. Helen M. Mellen. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 9,183.

Issued Jan. 20, 1888, to Mrs. Mary M. Reynolds, for the southeast quarter of section 15, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $122.55. Deed issued Dec. 23, 1893, to A. B. Judkins. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,802.

Issued July 5, 1883, to James McCoy, for the southwest quarter of section 15, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $88.35. Deed issued June 30, 1887, to James McCoy. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,661.

Issued June 8, 1885, to J. McCoy, for the northeast quarter of section 21, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $134.40. Deed issued Sept. 2, 1892, to A. McCoy. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 2,467.

Issued Oct. 13, 1882, to J. C. Hannon, for the southeast quarter of section 21, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $24.84. Deed issued June 22, 1883, to J. C. Hannon. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,468.

Issued Oct. 13, 1882, to Wm. F. Edgar, for the southwest quarter of section 21, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $440.00. Pur-

chase price paid, $440.00; interest paid, $1.14. Deed issued Oct. 28, 1882, to Wm. F. Edgar. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,602.

Issued May 11, 1885, to P. Potts, for the northeast quarter of section 23, township 2 south, range 1 west, S. B. M., 155.84 acres. Agreed purchase price, $77.92. Purchase price paid, $77.92; interest paid, $———. Deed issued June 6, 1892, to the Southern California Investment Co. Present owner of contract,————————. Patent No. 18. Issued Oct. 7, 1891, for 155.84 acres of land described above.

Contract No. 4,599.

Issued May 11, 1885, to J. C. Hannon and Jno. E. Jackson, for the southeast quarter of section 23, township 2 south, range 1 west, S. B. M., 158.72 acres. Agreed purchase price, $317.44. Purchase price paid, $317.44; interest paid, $136.23. Deed issued Jan. 17, 1893, to D. A. Scott. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 158.72 acres of land described above.

Contract No. 2,827.

Issued Sept. 3, 1883, to J. J. Deming, for the east half of the northwest quarter of section 23, township 2 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $47.94. Deed issued June 30, 1885, to A. H. Judson and P. Potts. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 1,010.

Issued Feb. 11, 1881, to Wm. F. Edgar, for the southwest quarter of the northwest quarter of section 23, township 2 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $100.00; interest paid, $———. Deed issued Feb. 11, 1881, to Wm. F. Edgar. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 2,592.

Issued Nov. 23, 1882, to Horace J. Roberts, for the south half of the southwest quarter of section 23, township 2 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $210.00. Purchase price paid, $210.00; interest paid, $30.10. Deed issued June 30, 1885, to A. H. Judson and P. Potts. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,597.

Issued May 11, 1885, to J. C. Hannon and Jno. E. Jackson, for the west half of the northwest quarter of section 25, township 2 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $560.00. Purchase price paid, $560.00; interest paid, $241.89. Deed issued Jan. 17, 1893, to D. A. Scott. Present owner of conctract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 4,598.

Issued May 11, 1895, to J. C. Hannon and Jno. E. Jackson, for the east half of the northwest quarter of section

25, township 2 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $280.00. Purchase price paid, $280.00; interest paid, $120.21. Deed issued Jan. 17, 1893, to D. A. Scott. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 4,600.

Issued May 11, 1885, to San Gorgonio Land & Water Co., for the east half of section 25, township 2 south, range 1 west, S. B. M., 310.40 acres. Agreed purchase price, $1,371.00. Purchase price paid, $1,371.00; interest paid, $539.20. Deed issued May 23, 1892, to A. H. Judson. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 310.40 acres of land described above.

Contract No. 2,969.

Issued Dec. 22, 1883, to A. J. Viele, for the southwest quarter of section 27, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $95.20. Deed issued ————, to ————. Present owner of contract, George Leslie. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,473.

Issued Oct. 13, 1882, to J. C. Hannon, for the south half of the northeast quarter, and the south half of section 29, and the northwest quarter of section 33, township 2 south, range 1 west, S. B. M., 560 acres. Agreed purchase price, $1,860.00. Purchase price paid, $1,860.00; interest

paid, $206.99. Deed issued Oct. 13, 1884, to J. C. Hannon. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 560 acres of land described above.

Contract No. 2,740.

Issued April 2, 1883, to Mrs. Mattie W. McCoy, for the northeast quarter of section 31, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $226.25. Deed issued May 1, 1888, to Mrs. Mattie W. McCoy. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,758.

Issued April 25, 1883, to Ann Singleton, Wm. Singleton and Ann Haskell, for the southeast quarter, and the west half of section 31, township 2 south, range 1 west, S. B. M., 491.20 acres. Agreed purchase price, $2,456.00. Purchase price paid, $2,456.00; interest paid, $————. Deed issued July 19, 1883, to Ann Singleton, Wm. Singleton and Ann Haskell. Present owner of contract, ———— ————. Patent No. 2. Issued April 4, 1879, for 491.20 acres of land described above.

Contract No. 2,591.

Issued Nov. 23, 1882, to Frank Monaghan and B. G. Balcom, for the northeast quarter of section 33, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $115.74. Deed issued June 20, 1887, to Frank Monaghan and B. G. Balcom. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,894.

Issued Nov. 12, 1883, to E. Leedham, for the southeast half of section 33, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $89.60. Deed issued Nov. 17, 1885, to Noah Palmer. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,036.

Issued Jan. 12, 1884, to W. R. Standefer, for the southwest quarter of section 33, township 2 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $225.00. Deed issued Feb. 1, 1889, to A. H. Judson. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,364.

Issued Aug. 7, 1882, to B. W. Smith and Daniel A. Scott, for all of section 35, township 2 south, range 1 west, S. B. M., 640 acres. Agreed purchase price, $3,200.00. Purchase price paid, $3,200.00; interest paid, $896.00. Deed issued Aug. 8, 1887, to Daniel A. Scott. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 640 acres of land described above.

Contract No. 11,231.

Issued Oct. 22, 1892, to Frederick A. Thompson, for the northeast quarter of section 7, township 2 south, range 2 west, S. B. M., 164.22 acres. Agreed purchase price,

$821.10. Purchase price paid, $821.10; interest paid, $——. Deed issued Oct. 18, 1894, to Elizabeth J. Thompson. Present owner of contract, ——————. Patent No. 25. Issued Aug. 15, 1894, for 164.22 acres of land described above.

Contract No. 11,230.

Issued Oct. 22, 1892, to John Swift, for the northwest quarter of section 7, township 2 south, range 2 west S. B. M., 173.67 acres. Agreed purchase price, $868.35. Purchase price paid, $173.67; interest paid, $48.63. Deed issued ——————, to ——————. Present owner of contract, John Swift and Jennie Swift. Patent No. 25. Issued Aug. 15, 1894, for 173.67 acres of land described above.

Contract No. 10,078.

Issued April 26, 1889, to Drury Melone, for lots 1, 2 and 3 of section 7, township 2 south, range 2 west, S. B. M., 124.05 acres. Agreed purchase price, $1,240.50. Purchase price paid, $1,240.50; interest paid; $——. Quitclaim deed issued May 9, 1889, to Drury Melone. Present owner of contract, ——————. Patent No. ——. Issued ——————, for ——— acres of land described above.

Contract No. 9,576.

Issued May 7, 1888, to Felix Lalanne and Joseph Ganchon, for lots 4, 5, 6, 7 and 8 of section 7, township 2 south, range 2 west, S. B. M., 212.35 acres. Agreed purchase price, $1,061.75. Purchase price paid, $212.35; interest paid, $59.45. Deed issued ———, to ——————.

Present owner of contract, Felix Lalanne and Joseph Ganchon. Patent No. 18. Issued Oct. 7, 1891, for 212.35 acres of land described above.

Contract No. 9,575.

Issued May 5, 1888, to W. E. Sibley and C. A. Sanborn, for the northwest quarter of section 15, township 2 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $1,200.00. Purchase price paid, $1,200.00; interest paid, $439.60. Deed issued July 2, 1895, to Mrs. Clara H. French. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,196.

Issued Aug. 6, 1892, to O. Newburg, for the south half of the northeast quarter of section 15, township 2 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $179.20. Deed issued ————, to ————. Present owner of contract, O. Newburg. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 10,714.

Issued April 9, 1891, to H. V. Carter, for lots 1, 2, 7 and 8 of section 17, township 2 south, range 2 west, S. B. M., 155.30 acres. Agreed purchase price, $388.25. Purchase price paid, $388.25; interest paid, $16.92. Deed issued July 12, 1893, to H. V. Carter. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 155.30 acres of land described above.

Contract No. 10,715.

Issued April 9, 1891, to W. L. Jackson, for lots 3 and 4 of section 17, township 2 south, range 2 west, S. B. M., 74.13 acres. Agreed purchase price, $185.32. Purchase price paid, $37.06; interest paid, $20.76. Deed issued ————, to ————. Present owner of contract, L. B. Palmer. Patent No. 18. Issued Oct. 7, 1891, for 74.13 acres of land described above.

Contract No. 10,716.

Issued April 9, 1891, to S. A. Garrett, for lots 5 and 6 of section 7, township 2 south, range 2 west, S. B. M., 76.47 acres. Agreed purchase price, $191.17. Purchase price paid, $38.24; interest paid, $32.10. Deed issued ————, to ————. Present owner of contract, Hiram Leithead. Patent No. 18. Issued Oct. 7, 1891, for 76.47 acres of land described above.

Contract No. 10,717.

Issued April 9, 1891, to Ferdinand Wheeler, for the southeast quarter of section 17, township 2 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $112.00. Deed issued May 2, 1896, to Henry Mietzsch. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 10,718.

Issued April 9, 1891, to Mrs. Susan M. Wheeler, for the southwest quarter of section 17, township 2 south, range 2 west, S. B. M., 160 acres. Agreed purchase price,

$400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ————, to ————. Present owner of contract, Fred Wheeler. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,898.

Issued Sept. 10, 1886, to George M. Frink and Jacob W. Stwart, for the northwest quarter of the southeast quarter of section 19, township 2 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $19.30. Deed issued July 19, 1887, to George M. Frink and Jacob W. Stwart. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,899.

Issued Sept. 10, 1886, to George M. Frink and Jacob W. Stwart, for the southeast quarter of the northwest quarter of section 19, township 2 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $19.30. Deed issued July 19, 1887, to George M. Frink and Jacob W. Stwart. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,900.

Issued Sept. 10, 1886, to George M. Frink and Jacob W. Stwart, for the southwest quarter of the northwest quarter of section 19, township 2 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $19.30. Deed issued July 19,

1887, to George M. Frink and Jacob W. Stwart. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,901.

Issued Sept. 10, 1886, to George M. Frink and Jacob W. Stwart, for the northwest quarter of the northwest quarter of section 19, township 2 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $9.65. Deed issued July 19, 1887, to George M. Frink and Jacob W. Stwart. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,902.

Issued Sept. 10, 1886, to George M. Frink and Jacob W. Stwart, for the northeast quarter of the southwest quarter of section 19, township 2 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $19.30. Deed issued July 19, 1887, to George M. Frink and Jacob W. Stwart. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 9,574.

Issued May 5, 1888, to W. E. Sibley, for the northeast quarter of section 23, township 2 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $2,400.00. Purchase price paid, $2,400.00; interest paid, $765.30. Deed issued May 7, 1894, to Mary A. Kingsbury, executrix estate of Charles A. Kingsbury. Present owner of contract,

————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,514.

Issued April 8, 1885, to F. Hawkes, for the north half of the northeast quarter of section 29, township 2 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $156.80. Deed issued ———————— to ————————. Present owner of contract, F. Hawkes. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 6,913.

Issued April 8, 1887, to Edward G. Judson and Frank E. Brown, for the northeast quarter of section 1, township 2 south, range 3 west, S. B. M., 164.50 acres. Agreed purchase price, $411.25. Purchase price paid, $411.25; interest paid, $116.11. Deed issued May 16, 1892, to Edward G. Judson and Frank E. Brown. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 164.50 acres of land described above.

Contract No. 5,905.

Issued Sept. 11, 1886, to Harry H. Ford, for the northwest quarter of section 1, township 2 south, range 3 west, S. B. M., 173.50 acres. Agreed purchase price, $433.75. Purchase price paid, $433.75; interest paid, $37.83. Deed issued May 7, 1888, to Harry H. Ford. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 173.50 acres of land described above.

Contract No. 6,743.

Issued April 15, 1887, to Harry H. Ford, Isaac Ford and Arthur Ross, for the southeast quarter of section 1, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid $112.00. Deed issued April 25, 1892, to Harry H. Ford, Isaac Ford and Arthur Ross. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 6,744.

Issued April 15, 1887, to Arthur Ross, for the southwest quarter of section 1, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $509.20. Deed issued Mar. 17, 1892, to Arthur Ross. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 2,515.

Issued Oct. 24, 1882, to F. E. Brown and E. G. Judson, for the north half of the northeast quarter of section 3, township 2 south, range 3 west, S. B. M., 98.01. Agreed purchase price, $245.02. Purchase price paid, $245.02; interest paid, $69.85. Deed issued Dec. 3, 1887, to F. E. Brown and E. G. Judson. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 98.01 acres of land described above.

Contract No. 6,307.

Issued Feb. 7, 1887, to John D. Cooke, for the south half of the northeast quarter of section 3, township 2 south,

range 3 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $25.85. Deed issued June 3, 1889, to E. G. Judson and F. E. Brown. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 1,213.

Issued Sept. 20, 1881, to F. E. Brown, for the north half of the northwest quarter of section 3, township 2 south, range 3 west, S. B. M., 98.03 acres. Agreed purchase price, $245.07. Purchase price paid, $245.07; interest paid, $———. Deed issued Nov. 3, 1888, to F. E. Brown. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 98.03 acres of land described above.

Contract No. 1,214.

Issued Sept. 20, 1881, to F. E. Brown, for the south half of the northwest quarter of section 3, township 2 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $58.17. Deed issued Dec. 22, 1886, to F. E. Brown. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 9,940.

Issued Oct. 15, 1888, to Dwight D. Johnson, for the southeast quarter of section 3, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $320.00. Purchase price paid, $320.00; interest paid, $37.34. Deed issued Jan. 8, 1892, to Dwight D. Johnson. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,773.

Issued April 18, 1887, to E. G. Judson and F. E. Brown, for the east half of the southwest quarter of section 3, township 2 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $300.00. Purchase price paid, $300.00; interest paid, $178.20. Deed issued Dec. 29, 1891, to E. G. Judson and F. E. Brown. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 3,186.

Issued Feb. 18, 1884, to Emile Vache and Theophile Vache, for the northeast quarter of section 5, township 2 south, range 3 west, S. B. M., 178 acres. Agreed purchase price, $812.50. Purchase price paid, $812.50; interest paid, $232.80. Deed issued April 4, 1889, to Emile Vache and Theophile Vache. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 178 acres of land described above.

Contract No. 9,928.

Issued Oct. 5, 1888, to W. D. Covington and B. P. Davis, for the northwest quarter and south half of section 5, township 2 south, range 3 west, S. B. M., 498.69. Agreed purchase price, $623.36. Purchase price paid, $181.72; interest paid, $254.00. Deed issued ———— to ———— ————. Present owner of contract, W. D. Covington and Mrs. Mary L. Covington. Patent No. 18. Issued Oct. 7, 1891, for 498.69 acres of land described above.

Contract No. 8,801.

Issued Dec. 2, 1887, to C. Behrendt and B. Guirado, for all of section 7, township 2 south, range 3 west, S. B. M., 669.26 acres. Agreed purchase price, $669.26. Purchase price paid, $669.26; interest paid, $144.76. Deed issued Dec. 2, 1891, to J. C. Willmon. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 669.26 acres of land described above.

Contract No. 9,931.

Issued Oct. 5, 1888, to B. P. Davis, for the northeast quarter of section 9, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $160.00. Purchase price paid, $160.00; interest paid, $64.97. Deed issued Jan. 20, 1896, to B. P. Davis. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 9,930.

Issued Oct. 5, 1888, to W. D. Covington, for the northwest quarter of section 9, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $160.00. Purchase price paid, $32.00; interest paid, $62.72. Deed issued ———— to ————. Present owner of contract, W. D. Covington. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 9,929.

Issued Oct. 5, 1888, to P. H. Covington, for the south half of section 9, township 2 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $320.00. Purchase

price paid, $64.00; interest paid, $143.36. Deed issued ———— to ————. Present owner of contract, P. H. Covington. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 10,692.

Issued Feb. 2, 1891, to Myron A. Clark, for the northeast quarter of section 11, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ———— to ————. Present owner of contract, Myron A. Clark. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,693.

Issued Feb. 2, 1891, to Myron A. Clark, for the northwest quarter of section 11, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ———— to ————. Present owner of contract, Myron A. Clark. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,694.

Issued Feb. 2, 1891, to Myron A. Clark, for the southeast quarter of section 11, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ———— to ————. Present owner of contract, Myron A. Clark. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 3,375.

Issued Mar. 29, 1884, to Frank Ficke and Ernst Martin, for lots one and two, section 13, township 2 south, range 3 west, S. B. M., 79.41 acres. Agreed purchase price, $992.62. Purchase price paid, $992.62; interest paid, $1.83. Deed issued April 18, 1884, to Frank Ficke and Ernst Martin. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 79.71 acres of land described above.

Contract No. 10,705.

Issued Mar. 6, 1891, to Mrs. Ada Schenck Jackson, for lots five and six of section 13, township 2 south, range 3 west, S. B. M., 79.68 acres. Agreed purchase price, $199.20. Purchase price paid, $39.84; interest paid, $11.16. Deed issued ——— to ———. Present owner of contract, Mrs. Ada Schenck Jackson. Patent No. 2. Issued April 4, 1879, for 79.68 acres of land described above.

Contract No. 10,706.

Issued Mar. 6, 1891, to Mrs. Ada Schenck Jackson, for lots seven and eight of section 13, township 2 south, range 3 west, S. B. M., 79.52 acres. Agreed purchase price, $198.80. Purchase price paid, $40.31; interest paid, $11.09. Deed issued ——— to ———. Present owner of contract, Mrs. Ada Schenck Jackson. Patent No. 2. Issued April 4, 1879, for 79.52 acres of land described above.

Contract No. 10,450.

Issued Sept. 20, 1890, to C. J. Monson, Jr., for lots nine, ten, fifteen, and sixteen, section 13, township 2 south,

range 3 west, S. B. M., 153.36 acres. Agreed purchase price, $383.40. Purchase price paid, $76.68; interest paid, $64.41. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 2. Issued April 4, 1879, for 153.36 acres of land described above.

Contract No. 3,576.

Issued May 19, 1884, to B. E. Miles, for lots eleven, twelve, thirteen, and fourteen, section 13, township 2 south, range 3 west, S. B. M., 157.70 acres. Agreed purchase price, $394.25. Purchase price paid, $394.25; interest paid, $94.71. Deed issued Sept. 6, 1888, to B. E. Miles and Wm. Lacy. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 157.70 acres of land described above.

Contract No. 11,279.

Issued April 13, 1893, to J. C. Willmon, for all of section 15, township 2 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $181.60. Deed issued April 26, 1895, to J. C. Willmon. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 8,802.

Issued Dec. 2, 1887, to C. Behrendt and B. Guirado, for all of section 17, township 2 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $306.80. Deed issued Oct. 18, 1894, to J. C. Willmon. Present owner of

contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 8,803.

Issued Dec. 2, 1887, to C. Behrendt and B. Guirado, for all of section 21, township 2 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $1,280.00. Purchase price paid, $1,280.00; interest paid, $383.48. Deed issued April 11, 1893, to Alfred H. Smiley. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 10,451.

Issued Sept. 20, 1890, to C. J. Monson, Jr., for the northeast quarter of section 25, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———————— to ————————. Present owner of contract, Bear Valley Irrigation Co. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,452.

Issued Sept. 20, 1890, to C. J. Monson, Jr., for the northwest quarter of section 25, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———————— to ————————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,453.

Issued Sept. 20, 1890, to C. J. Monson, Jr., for the southeast quarter of section 25, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,454.

Issued Sept. 20, 1890, to C. J. Monson, Jr., for the southwest quarter of section 25, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 9,932.

Issued Oct. 2, 1888, to Orson Van Leuven, for all of section 27, township 2 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $640.00. Purchase price paid, $128.00; interest paid, $286.72. Deed issued ———— to ————. Present owner of contract, Orson Van Leuven. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 8,391.

Issued Sept. 23, 1887, to Louis M. Dinkelspiel, for the southwest quarter of section 29, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price,

$400.00. Purchase price paid, $400.00; interest paid, $87.75. Deed issued Dec. 2, 1891, to Anson F. Cornell. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,464.

Issued Mar. 20, 1885, to A. F. Cornell, for the northeast quarter of section 31, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $440.00. Purchase price paid, $440.00; interest paid, $193.01. Deed issued Jan. 30, 1893, to George H. Crafts. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,465.

Issued Mar. 20, 1885, to A. F. Cornell, for the northwest quarter of section 31, township 2 south, range 3 west, S. B. M., 158.80 acres. Agreed purchase price, $436.70. Purchase price paid, $436.70; interest paid, $191.52. Deed issued Jan. 30, 1893, to Geo. H. Crafts. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 158.80 acres of land described above.

Contract No. 4,466.

Issued Mar. 20, 1885, to A. F. Cornell, for the southeast quarter of section 31, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $440.00. Purchase price paid, $400.00; interest paid, $193.01. Deed issued Jan. 30, 1893, to Geo. H. Crafts. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,467.

Issued Mar. 20, 1885, to A. F. Cornell, for the southwest quarter of section 31, township 2 south, range 3 west, S. B. M., 159.60 acres. Agreed purchase price, $438.90. Purchase price paid, $438.90; interest paid, $192.46. Deed issued Jan. 30, 1893, to George H. Crafts. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 159.60 acres of land described above.

Contract No. 6,283.

Issued Jan. 21, 1887, to Chas. F. Smurr and Jno. R. Smurr, for the north half and southeast quarter of section 33, township 2 south, range 3 west, S. B. M., 480 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $188.91. Deed issued Feb. 5, 1894, to Chas. F. Smurr and Jno. R. Smurr. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 480 acres of land described above.

Contract No. 6,284.

Issued Jan. 21, 1887, to Chas. F. Smurr and Jno. R. Smurr, for the southwest quarter of section 33, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $160.00. Purchase price paid, $160.00; interest paid, $62.97. Deed issued Feb. 5, 1894, to Chas. F. Smurr and Jno. R. Smurr. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 10,260.

Issued Mar. 21, 1890, to James Graham, for the northeast quarter of section 35, township 2 south, range 3 west,

S. B. M., 160 acres. Agreed purchase price, $1,920.00. Purchase price paid, $384.00; interest paid, $430.08. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 26. Issued Nov. 27, 1894, for 160 acres of land described above.

Contract No. 10,261.

Issued Mar. 21, 1890, to James Graham, for the northwest quarter of section 35, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $1,120.00. Purchase price paid, $224.00; interest paid, $250.88. Deed issued ———— to ———— Present owner of contract, Bear Valley Irrigation Company. Patent No. 26. Issued Nov. 27, 1894, for 160 acres of land described above.

Contract No. 10,262.

Issued Mar. 21, 1890, to James Graham, for the southeast quarter of section 35, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,400.00. Purchase price paid, $480.00; interest paid, $537.60. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 26. Issued Nov. 27, 1894, for 160 acres of land described above.

Contract No. 10,263.

Issued Mar. 21, 1890, to James Graham, for the southwest quarter of section 25, township 2 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $1,920.00. Purchase price paid, $384.00; interest paid, $430.08. Deed issued ———— to ————. Present owner of

contract, Bear Valley Irrigation Company. Patent No. 26. Issued Nov. 27, 1894, for 160 acres of land described above.

Contract No. 10,930.

Issued Nov. 30, 1891, to Ernest Waycock, for all of section 1, township 2 south, range 4 west, S. B. M., 673.80 acres. Agreed purchase price, $1,684.50. Purchase price paid, $336.90; interest paid, $94.33. Deed issued ——— ——— to ———. Present owner of contract, S. B. Wright. Patent No. 18. Issued Oct. 7, 1891, for 673.80 acres of land described above.

Contract No. 4,709.

Issued July 15, 1885, to H. G. Wilson and Gustav Sprecher, for the northeast quarter of the southeast quarter and the northeast quarter of section 3, township 2 south, range 4 west, S. B. M., 210.43 acres. Agreed purchase price, $1,157.36. Purchase price paid, $1,157.36; interest paid, $603.76. Deed issued May 2, 1896, to R. R. Herron. Present owner of contract, ———. Patent No. 6. Issued Dec. 27, 1883, for 210.43 acres of land described above.

Contract No. 4,858.

Issued Sept. 28, 1885, to E. B. Burr, for the northwest quarter of section 3, township 2 south, range 4 west, S. B. M., 168.41 acres. Agreed purchase price, $421.02. Purchase price paid, $421.02; interest paid, $187.23. Deed issued Mar. 19, 1896, to H. S. Bridge. Present owner of contract, ———. Patent No. 6. Issued Dec. 27, 1883, for 168.41 acres of land described above.

Contract No. 3,497.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the northeast quarter of section 5, township 2 south, range 4 west, S. B. M., 160.61 acres. Agreed purchase price, $1,606.10. Purchase price paid, $1,606.10; interest paid, $174.88. Deed issued April 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160.61 acres of land described above.

Contract No. 3,498.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the northwest quarter of section 5, township 2 south, range 4 west, S. B. M., 158.70 acres. Agreed purchase price, $1,587.00. Purchase price paid, $1,587.00; interest paid, $172.80. Deed issued Apr. 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 158.70 acres of land described above.

Contract No. 3,499.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the southeast quarter of section 5, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $174.22. Deed issued Apr. 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,500.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the southwest quarter of section 5, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $174.22. Deed issued Apr. 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,501.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the northeast quarter of section 7, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $174.22. Deed issued Apr. 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,502.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the southeast quarter of section 7, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $174.22. Deed issued April 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,503.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the fractional west half of section 7, township 2 south, range 4 west, S. B. M., 188.21 acres. Agreed purchase price, $1,882.10. Purchase price paid, $1,882.10; interest paid, $204.92. Deed issued April 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 188.21 acres of land described above.

Contract No. 5,563.

Issued May 1, 1886, to John Sroufe, and Augustus J. Ranken, for the east half of the southwest quarter, and the east half of section 9, township 2 south, range 4 west, S. B. M., 400 acres. Agreed purchase price, $1,060. Purchase price paid, $1,060; interest paid, $229.19. Deed issued Jan. 7, 1892, to Augustus J. Ranken and Wm. Z. Tiffany. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 400 acres of land described above.

Contract No. 4,741.

Issued Aug. 7, 1885, to John A. Van Arsdale, for the northwest quarter of the northwest quarter of section 9, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $43.08. Deed issued Feb. 25, 1888, to John A. Van Arsdale. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 4,742.

Issued Aug. 7, 1885, to Joseph W. Dickenson, for the southwest quarter of the northwest quarter of section 9, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $126.35. Deed issued March 28, 1891, to M. A. Murphy. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 4,815.

Issued Sept. 7, 1885, to John A. Van Arsdale, for the northeast quarter of the northwest quarter of section 9, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $51.22. Deed issued Feb. 16, 1888, to Mrs. J. C. Van Arsdale. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,217.

Issued Jan. 14, 1886, to Charles A. Sankey, for the southeast quarter of the northwest quarter of section 9, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $13.70. Deed issued Sept. 22, 1886, to Chas. A. Sankey. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 5,210.

Issued Jan. 12, 1886, to Mrs. Mary J. Sankey, for the southwest quarter of the southwest quarter of section 9, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interst paid, $3.75. Deed issued March 23, 1896, to Mrs. Mary J. Sankey. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 4,827.

Issued Sept. 14, 1885, to W. S. Bullis, for the northwest quarter of the southwest quarter of section 9, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued Sept. 23, 1890, to Allen N. Little. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 4,708.

Issued July 15, 1885, to H. G. Wilson and Gustavus A. Sprecher, for all section 11, township 2 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $482.15; interest paid, $954.20. Deed issued ————, to ————. Present owner of contract, G. A. Sprecher. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 4,683.

Issued June 22, 1885, to Henry W. Robinson, for the south half of the northeast quarter of section 17, township

2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $11.20. Deed issued Feb. 27, 1892, to Henry W. Robinson. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,504.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the north half of the northeast quarter of section 17, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $65.33. Deed issued April 23, 1886, to George M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,505.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the southeast quarter of the northwest quarter of section 17, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $300. Purchase price paid, $300; interest paid, $32.66. Deed issued April 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 40 acres of land described above.

Contract No. 3,506.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the north half of the northwest quarter and the south half of the northwest quarter, of section 17, town-

ship 2 south, range 4 west., S. B. M., 120 acres. Agreed purchase price, $900. Purchase price paid, $900; interest paid, $98. Deed issued April 23, 1886, to George M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 7,922.

Issued Aug. 1, 1887, to T. H. Cole, for the south half of the southwest quarter and the southeast quarter of section 17, township 2 south, range 4 west, S. B. M., 240 acres. Agreed purchase price, $180. Purchase price paid, $180; interst paid, $17.64. Deed issued, ————, to ————————. Present owner of contract, T. H. Cole. Patent No. 18. Issued Oct. 7, 1891, for 240 acres of land described above.

Contract No. 5,298.

Issued Feb. 9, 1886, to C. O. Perrine, for the north half of the southwest quarter of section 17, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $15.50. Deed issued March 10, 1892, to Mathew Gage. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,507.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the northeast quarter of section 19, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid,

$174.22. Deed issued April 23, 1886, to George M. Hippee and Samuel Merrill. Present owner of contract, ———. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,508.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the northwest half of section 19, township 2 south, range 4 west, S. B. M., 157.97 acres. Agreed purchase price, $1,579.70. Purchase price paid, $1,579.70; interest paid, $172. Deed issued April 23, 1886, to George M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 157.97 acres of land described above.

Contract No. 3,509.

Issued May 2, 1884, to Geo. M. Hippee and Samuel Merrill, for the southwest quarter of section 19, township 2 south, range 4 west, S. B. M., 158.31 acres. Agreed purchase price, $1,583.10. Purchase price paid, $1,583.10; interest paid, $172.38. Deed issued April 23, 1886, to Geo. M. Hippee and Samuel Merrill. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 158.31 acres of land described above.

Contract No. 5,741.

Issued July 1, 1886, to Mrs. Mercy C. Williams, for the south half of the northeast quarter of section 21, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56. Deed issued July 24, 1891, to Henry P. Kyes.

Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,742.

Issued July 1, 1886, to Mrs. Mercy C. Williams, for the north half of the northeast quarter of section 21, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued July 11, 1892, to Henry P. Kyes. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 4,483.

Issued March 28, 1885, to Adam H. Williams, for the southeast quarter of the northwest quarter of section 21, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $24.50. Deed issued Feb. 19, 1889, to Adam H. Williams. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 4,483½.

Issued March 28, 1885, to Adam H. Williams, for the north half of the northwest quarter, and the southwest quarter of the northwest quarter of section 21, township 2 south, range 4 west, S. B. M., 120 acres. Agreed purchase price, $300. Purchase price paid, $300; interest paid, $77.85. Deed issued Jan. 19, 1892, to Adam H. Williams. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 120 acres of land described above.

Contract No. 10,709.

Issued March 25, 1891, to J. Hawkins, for the southeast quarter of section 21, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $150; interest paid, $129.50. Deed issued ————, to ————. Present owner of contract, H. P. Kyes. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,368.

Issued March 25, 1884, to Mary E. Johnson, for the north half of the southwest quarter of section 21, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $21. Deed issued Feb. 13, 1886, to Mrs. Mary E. Johnson. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,368½.

Issued March 25, 1884, to Mary E. Johnson, for the south half of the southwest quarter of section 21, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $21. Deed issued Feb. 13, 1886, to Mrs. Mary E. Johnson. Present owner of contract, ————. Patent No. 9. Issued Jan. 9, 1885, for 80 acres of land described above.

Contract No. 4,518.

Issued April 10, 1885, to H. J. Stevenson, for all section 23, township 2 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,-600; interest paid, $638.40. Deed issued May 31, 1892, to T. C. Naramore. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 4,670.

Issued June 15, 1885, to H. J. Stevenson, for all section 25, township 2 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $1,760. Purchase price paid, $1,-760. Interest paid, $689.92. Deed issued June 16, 1892, to Sam. B. Dewey and Francis H. Boyd. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 5,089.

Issued Dec. 24, 1885, to C. O. Perrine, for the east half of the northwest quarter; the northeast quarter and the south half of section 29; the south half of the northeast quarter and the south half of section 31; the northwest quarter of the northeast quarter; the east half of the northeast quarter, and the southwest quarter of section 33, township 2 south, range 4 west, S. B. M., 1,239.77 acres. Agreed purchase price, $4,139.31. Purchase price paid, $4,139.31; interest paid, $1,611. Deed issued Dec. 8, 1892, to C. O. Perrine. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 1,239.77 acres of land described above.

Contract No. 4,675.

Issued June 19, 1885, to C. E. Knapp, for the northwest quarter of the northwest quarter of section 29, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued Dec. 8, 1892, to C. O. Perrine. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,677.

Issued June 18, 1885, to C. E. Knapp, for the southwest quarter of the northwest quarter, of section 29, township 2 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued Dec. 8, 1892, to C. O. Perrine. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,876.

Issued Oct. 5, 1885, to Willis E. Reed, for the north half of the northeast quarter of section 31, township 2 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $201.60. Deed issued Jan. 14, 1892, to Willis E. Reed. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 4,874.

Issued Oct. 3, 1885, to Wm. B. Gillett, for the south half of the northwest quarter of section 31, township 2 south,

range 4 west, S. B. M., 79.72 acres. Agreed purchase price, $797.20. Purchase price paid, $797.20; interest paid, $288.18. Deed issued March 23, 1892, to F. W. Richardson and Alice R. Richardson. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 79.72 acres of land described above.

Contract No. 4,179.

Issued Jan. 5, 1885, to Mrs. Mary A. Burley, for the north half of the northwest quarter of section 31, township 2 south, range 4 west, S. B. M., 79.61 acres. Agreed purchase price, $769.10. Purchase price paid, $769.10; interest paid, $222.90. Deed issued March 9, 1893, to Sidney Adams. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 79.61 acres of land described above.

Contract No. 5,090.

Issued Dec. 24, 1885, to C. O. Perrine, for the southwest quarter of the northeast quarter; the northwest quarter and the southeast quarter of section 33, township 2 south, range 4 west, S. B. M., 360 acres. Agreed purchase price, $900. Purchase price paid, $900; interest paid, $264.60. Deed issued April 1, 1891, to C. O. Perrine. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 360 acres of land described above.

Contract No. 5,020.

Issued Dec. 1, 1885, to Seymour A. Jackson, for the northeast quarter of section 35, township 2 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.

Purchase price paid, $581.58; interest paid, $613.30. Deed issued ————, to ————. Present owner of contract, Seymour A. Jackson. Patent No. 6, issued Dec. 27, 1883; also patent No. 25, issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 7,575.

Issued June 13, 1887, to H. L. McNeil and H. J. Stevenson, for the northwest quarter and the south half of section 35, township 2 south, range 4 west, S. B. M., 480 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $40.57. Deed issued May 18, 1892, to Frieda Brodersen. Present owner of contract, ————. Patent No. 18, issued Oct. 7, 1891; also patent No. 25, issued Aug. 15, 1894, for 480 acres of land described above.

Contract No. 2,047.

Issued Jan. 12, 1882, to James Boyd, for lots 1, 2, and 3 of section 13, township 2 south, range 5 west, S. B. M., 73.63 acres. Agreed purchase price, $1,830.15. Purchase price paid, $1,830.15; interest paid, $———. Quitclaim deed issued Jan. 14, 1882, to James Boyd. Present owner of contract, ————. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 2,530.

Issued Oct. 24, 1882, to Charles H. Wilbur, for the southwest quarter of the southeast quarter, and lot 4 of section 13, township 2 south, range 5 west, S. B. M., 70.14 acres. Agreed purchase price, $1,803.50. Purchase price paid,

$1,803.50; interest paid, $499.96. Deed issued Oct. 21, 1887, to Charles H. Wilbur. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 70.14 acres of land described above.

Contract No. 2,503.

Issued Oct. 20, 1882, to John Wilbur, for the east half of the southeast quarter of section 13, township 2 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $1,965. Purchase price paid, $1,965; interest paid, $481.45. Deed issued March 4, 1887, to John Wilbur. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 2,466.

Issued Oct. 13, 1882, to E. G. Brown, for lot 5 of section 13, township 2 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $1,965. Purchase price paid, $1,965; interest paid, $481.45. Deed issued March 4, 1887, to John Wilbur. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 2,466.

Issued Oct. 13, 1882, to E. G. Brown, for lot 5 of section 13, township 2 south, range 5 west, S. B. M., 12.35 acres. Agreed purchase price, $635.25. Purchase price paid, $635.25; interest paid, $168.96. Deed issued July 18, 1887, to E. G. Brown. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 12.35 acres of land described above.

Contract No. 2,490.

Issued Oct. 17, 1882, to Albert S. White, for lots 1 and 2 of section 23, township 2 south, range 5 west, S. B. M., 25.36 acres. Agreed purchase price, $507.20. Purchase price paid, $507.20; interest paid, $71.01. Deed issued Oct. 23, 1885, to Albert S. White. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 25.36 acres of land described above.

Contract No. 2,543.

Issued Nov. 3, 1882, to Joseph J. Deming, for the northeast quarter of the northwest quarter of section 25, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $71.60. Deed issued Dec. 26, 1884, to Joseph J. Deming. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,544.

Issued Nov. 3, 1882, to Elizabeth Mary Cox, for the northwest quarter of the northwest quarter of section 25, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $101.06. Deed issued Feb. 3, 1886, to Elizabeth Mary Cox. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,602.

Issued Nov. 28, 1882, to Joseph J. Deming, for the south half of the northwest quarter, the northeast quarter and

the south half of section 25, township 2 south, range 5 west, S. B. M., 560 acres. Agreed purchase price, $11,256. Purchase price paid, $11,256; interest paid, $2,573.90. Deed issued Jan. 14, 1887, to J. S. Castleman, A. Hoeberlin and A. H. Naftzger. Present owner of contract ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 5,202.

Issued Jan. 11, 1886, to C. O. Perrine, for lot 1, section 27, township 2 south, range 5 west, S. B. M., 1.62 acres. Agreed purchase price, $75. Purchase price paid, $75; interest paid, $———. Deed issued Jan. 12, 1886, to C. O. Perrine. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 1.62 acres of land described above.

Contract No. 2,566.

Issued Nov. 13, 1882, to Frank Etu, for lots 1 and 2, section 29, township 2 south, range 5 west, S. B. M., 36.83 acres. Agreed purchase price, $662.94. Purchase price paid, $662.94; interest paid, $170.98. Deed issued June 30, 1887, to H. C. Rolfe and C. J. Perkins. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 36.83 acres of land described above.

Contract No. 2,567.

Issued Nov. 13, 1882, to Wm. Neal, for lots 3 and 4 of section 29, township 2 south, range 5 west, S. B. M., 49.61 acres. Agreed purchase price, $681.78. Purchase price paid, $681.78; interest paid, $187.90. Deed issued Nov. 3,

1887, to W. B. Russell for lot 4 and the west half of lot 3, and V. S. Runels for the east half of lot 3. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 49.61 acres of land described above.

Contract No. 4,637.

Issued May 23, 1885, to Thomas C. Allen, for lots 1 and 2 of section 31, township 2 south, range 5 west, S. B. M., 60 acres. Agreed purchase price, $900. Purchase price paid, $900; interest paid, $120.40. Deed issued Oct. 12, 1887, to Thomas C. Allen. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 60 acres of land described above.

Contract No. 2,541.

Issued Nov. 1, 1882, to Reuben Baxter, for lots 3 and 4 of section 31, township 2 south, range 5 west, S. B. M., 62.20 acres. Agreed purchase price, $933. Purchase price paid, $933; interest paid, $———. Deed issued Nov. 10, 1882, to Reuben Baxter. Present owner of contract, ———————. Patent No. 4. Issued June 26, 1882, for 62.20 acres of land described above.

Contract No. 2,369.

Issued Aug. 16, 1882, to A. D. Haight, for the northeast quarter of the northeast quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $4.11. Deed issued Sept. 18, 1882, to A. D. Haight. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,376.

Issued Aug. 25, 1882, to S. R. Magee, for the southeast quarter of the northeast quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $———. Deed issued Aug. 29, 1882, to S. R. Magee. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,373.

Issued Aug. 19, 1882, to Henry M. Streeter, for the west half of the northwest quarter of section 33, township 2 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $1,650. Purchase price paid, $1,650; interest paid, $———. Deed issued Aug. 25, 1882, to Henry M. Streeter. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 2,361.

Issued Aug. 3, 1882, to James B. Summons, for the northeast quarter of the southeast quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $———. Deed issued Aug. 5, 1882, to James B. Summons. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,362.

Issued Aug. 3, 1882, to James B. Summons, for the south half of the southeast quarter of section 33, town-

ship 2 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $2,400. Purchase price paid, $2,400; interest paid, $667.62. Deed issued Aug. 17, 1888, to C. G. Gill and O. T. Dyer. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 2,377.

Issued Aug. 26, 1882, to Riverside Land and Irrigating Company, for the northwest quarter of the southeast quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $48.53. Deed issued June 22, 1883, to Riverside Land and Irrigating Company. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,374.

Issued Aug. 22, 1882, to M. F. Bixler, for the northeast quarter of the southwest quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $———. Deed issued Aug. 29, 1882, to M. F. Bixler. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,363.

Issued Aug. 3, 1882, to Charles T. Rouse, for the southeast quarter of the southwest quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed

purchase price, $1,200. Purchase price paid, $1,200; interest paid, $———. Deed issued Aug. 5, 1882, to Charles T. Rouse. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,378.

Issued Aug. 26, 1882, to S. C. Evans, for the southwest quarter of the southwest quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $———. Deed issued Aug. 29, 1882, to S. C. Evans. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,388.

Issued Sept. 6, 1882, to S. C. Evans, for the northwest quarter of the southwest quarter of section 33, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $309.87. Deed issued April 22, 1887, to S. C. Evans. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 4,087.

Issued Nov. 5, 1884, to J. H. D. Cox, for the northeast quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter of the southeast quarter of section 35, township 2 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $1,080. Purchase price paid, $1,080; interest paid, $299. Deed issued Oct. 16, 1889, to J. H. D. Cox. Present owner of contract,

————. Patent No. 4. Issued June 26, 1882, for 160 acres of land described above.

Contract No. 4,337.

Issued Feb. 16, 1885, to John Hall, for the northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section 35, township 2 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $220. Purchase price paid, $220; interest paid, $7.72. Deed issued Oct. 16, 1885, to John Hall. Present owner of contract, ————. Patent No. 4. Issued June 25, 1882, for 80 acres of land described above.

Contract No. 5,054.

Issued Dec. 11, 1885, to C. O. Perrine, for the southeast quarter of the northwest quarter, and lot 1, and the northeast quarter of the southwest quarter of section 35, township 2 south, range 5 west, S. B. M., 111.57 acres. Agreed purchase price, $378.92. Purchase price paid, $378.92; interest paid, $———. Deed issued Dec. 19, 1885, to C. O. Perrine. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 111.57 acres of land described above.

Contract No. 2,441.

Issued Oct. 10, 1882, to A. J. Twogood, for the southwest quarter of the northwest quarter of section 35, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $1,000. Purchase price paid, $1,000; interest paid, $200.70. Deed issued May 24, 1886, to A. J. Twogood. Present owner of contract, ————. Pat-

ent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 4,024.

Issued Oct. 21, 1884, to Charles H. Low, for the southwest quarter of the southeast quarter of section 35, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $20.30. Deed issued Sept. 28, 1885, to Chas. H. Low. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 4,178.

Issued Jan. 5, 1885, to Gustavus O. Newman, for the east half of the southeast quarter of section 35, township 2 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $560. Purchase price paid, $560; interest paid, $156.80. Deed issued Jan. 8, 1890, to Gustavus O. Newman. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 80 acres of land described above.

Contract No. 2,426.

Issued Sept. 29, 1882, to Henry L. R. Styles, for the northwest quarter of the southwest quarter of section 35, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $———. Deed issued Oct. 5, 1882, to Henry L. R. Styles. Present owner of contract, ————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 2,625.

Issued Dec. 18, 1882, to John S. Penprose, for the southwest quarter of the southwest quarter of section 35, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $250. Purchase price paid, $250; interest paid, $42.32. Deed issued Nov. 26, 1886, to John S. Penprose. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 3,920.

Issued Sept. 17, 1884, to Charles H. Low, for the southeast quarter of the southwest quarter of section 35, township 2 south, range 5 west, S. B. M., 40 acres. Agreed purchase price, $280. Purchase price paid, $280; interest paid, $15.68. Deed issued Sept. 28, 1885, to Chas. H. Low. Present owner of contract, ————————. Patent No. 4. Issued June 26, 1882, for 40 acres of land described above.

Contract No. 10,809.

Issued Sept. 10, 1891, to Martin Comstock, for the northeast quarter of section 1, township 2 south, range 6 west, S. B. M., 159.92 acres. Agreed purchase price, $399.80. Purchase price paid, $79.96; interest paid, $111.95. Deed issued, ————————, to ————————. Present owner of contract, Martin Comstock. Patent No. 25. Issued Aug. 15, 1894, for 159.92 acres of land described above.

Contract No. 10,146.

Issued Aug. 8, 1889, to E. W. Lewis, for the northwest quarter of section 1, township 2 south, range 6 west, S. B.

M., 159.76 acres. Agreed purchase price, $798.80. Purchase price paid, $159.76; interest paid, $134.19. Deed issued ———— to ————. Present owner of contract, George C. Hickey. Patent No. 25. Issued Aug. 15, 1894, for 159.76 acres of land described above.

Contract No. 11,422.

Issued April 7, 1896, to Mrs. Mary E. Comstock, for the southeast quarter of section 1, township 2 south, range 6 west, S. B. M., 133.52 acres. Agreed purchase price, $333.30. Purchase price paid, $333.80; interest paid, $———. Quitclaim deed issued May 2, 1896, to Mrs. Mary E. Comstock. Present owner of contract, ———. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 10,142.

Issued Aug. 5, 1889, to Louis H. Bilande, for the northwest quarter of section 3, township 2 south, range 6 west, chase price paid, $430; interest paid, $75.07. Deed issued S. B. M., 172 acres. Agreed purchase price, $430. Pur- July 23, 1895, to Louis Henry Bilande. Present owner of contract, ————. Patent No. 25. Issued Aug. 15, 1894, for 172 acres of land described above.

Contract No. 10,132.

Issued July 24, 1889, to Price Layton, for the northeast quarter of section 3, township 2 south, range 6 west, S. B. M., 168.82 acres. Agreed purchase price, $422.05. Purchase price paid, $84.41; interest paid, $141.78. Deed issued ————, to ————. Present owner of

contract, Edward W. Rouce. Patent No. 25. Issued Aug. 15, 1894, for 168.82 acres of land described above.

Contract No. 6,932.

Issued April 29, 1887, to A. G. Patton, for the south half of section 3, township 2 south, range 6 west, S. B. M., 320 acres. Agreed purchase price, $1,920. Purchase price paid, $1,920; interest paid, $536.40. Deed issued April 27, 1892, to A. G. Patton. Present owner of contract, ————. Patent No. 18. Issued Oct. 17, 1891, for 320 acres of land described above.

Contract No. 3,512.

Issued May 2, 1884, to A. J. Stalder and J. N. Clyman, for all of section 5, township 2 south, range 6 west, S. B. M., 653.08 acres. Agreed purchase price, $2,612.32. Purchase price paid, $2,612.32; interest paid, $1,106.51. Deed issued Dec. 2, 1891, to A. J. Stalder and J. N. Clyman. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 653.08 acres of land described above.

Contract No. 3,403.

Issued April 7, 1884, to Mrs. Julia Herring, for the northeast quarter of section 7, township 2 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $179.20. Deed issued April 9, 1889, to Mrs. Julia Herring. Present owner of contract, ————. Patent No. 9. Issued July 9, 1885, for 160 acres of land described above.

Contract No. 3,930.

Issued Sept. 23, 1884, to Chas. J. Downing, for the southeast quarter of section 7, township 2 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $167.45. Deed issued June 27, 1892, to F. M. Eisenhart. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,128.

Issued Dec. 15, 1884, to Joseph Gilbert, for the west half of section 7, township 2 south, range 6 west, S. B. M., 281.28 acres. Agreed purchase price, $1,125.12. Purchase price paid, $1,125.12; interest paid, $441. Deed issued Dec. 16, 1891, to Joseph Gilbert. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 281.28 acres of land described above.

Contract No. 2,897.

Issued Nov. 12, 1883, to A. G. Patton, for the northeast quarter and the north half of the southeast quarter of section 9, township 2 south, range 6 west, S. B. M., 240 acres. Agreed purchase price, $720. Purchase price paid, $720; interest paid, $209.44. Deed issued Feb. 1, 1889, to A. G. Patton. Present owner of contract, ———. Patent No. 9. Issued Jan. 9, 1885, for 240 acres of land described above.

Contract No. 2,896.

Issued Nov. 12, 1883, to H. J. Stevenson, for the northwest quarter and the north half of the southwest quarter

of section 9, township 2 south, range 6 west, S. B. M., 240 acres. Agreed purchase price, $720. Purchase price paid, $720; interest paid, $209.44. Deed issued Feb. 1, 1889, to A. G. Patton. Present owner of contract, ———. Patent No. 9. Issued Jan. 9, 1885, for 240 acres of land described above.

Contract No. 2,898.

Issued Nov. 12, 1883, to O. J. Simpkins, for the south half of the southeast quarter and the south half of the southwest quarter of section 9, township 2 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $139.63. Deed issued Feb. 1, 1889, to A. G. Patton. Present owner of contract, ————. Patent No. 9. Issued Jan. 9, 1885, for 160 acres of land described above.

Contract No. 10,688.

Issued Jan. 13, 1891, to Dougald McRea and James McClure, for the northwest quarter of the northeast quarter and lots 1 and 2 of section 11, township 2 south, range 6 west, S. B. M., 93.41 acres. Agreed purchase price, $560.46. Purchase price paid, $112.09; interest paid, $94.14. Deed issued ————, to ————. Present owner of contract, Dougald McRea and James McClure. Patent No. 25. Issued Aug. 15, 1894, for 93.41 acres of land described above.

Contract No. 10,756.

Issued May 21, 1891, to I. N. Van Nuys, for the north half of the northwest quarter, and lots 3 and 4 of section 11, township 2 south, range 6 west, S. B. M., 154.68 acres.

Agreed purchase price, $1,856.16. Purchase price paid, $1,856.16; interest paid, $117.80. Quitclaim deed issued July 15, 1892, to I. N. Van Nuys. Present owner of contract, ————————. Patent No. ———. Issued ———, for ——— acres of land described above.

Contract No. 10,123.

Issued July 5, 1889, to Mrs. Kate Bryant McVey, for the northwest quarter and lots 3 and 4 of section 17, township 2 south, range 6 west, S. B. M., 193.91 acres. Agreed purchase price, $1,163.46. Purchase price paid, $1,163.46; interest paid, $405.38. Deed issued Sept. 25, 1895, to Mrs. Kate Bryant McVey. Present owner of contract, ———. Patent No. 25. Issued Aug. 15, 1894, for 193.91 acres of land described above.

Contract No. 10,193.

Issued Oct. 23, 1889, to Chas. E. Mosher, for the fractional northeast quarter of section 17, township 2 south, range 6 west, S. B. M., 131.09 acres. Agreed purchase price, $786.54. Purchase price paid, $786.54; interest paid, $223.31. Deed issued Nov. 21, 1894, to Chas. E. Mosher. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 131.09 acres of land described above.

Contract No. 10,566.

Issued Nov. 10, 1890, to Adam Willhart, for lot 1 of section 19, township 2 south, range 6 west, S. B. M., 8.11 acres. Agreed purchase price, $81.10. Purchase price paid, $81.10; interest paid, $———. Deed issued Oct. 20, 1894, to Adam Willhart. Present owner of contract,

————. Patent No. 25. Issued Aug. 15, 1894, for 8.11 acres of land described above.

Contract No. 5,216.

Issued Jan. 14, 1886, to William Thorpe, for the east half of section 1, township 2 south, range 7 west, S. B. M., 321.49 acres. Agreed purchase price, $964.47. Purchase price paid, $964.47; interest paid, $74.27. Deed issued June 20, 1887, to William Thorpe. Present owner of contract, ————. Patent No. 9. Issued Jan. 9, 1885, for 321.49 acres of land described above.

Contract No. 4,590.

Issued May 8, 1885, to Edw. E. Perley, for the northwest quarter of section 1, township 2 south, range 7 west, S. B. M., 164.49 acres. Agreed purchase price, $493.47. Purchase price paid, $493.47; interest paid, $52.96. Deed issued April 14, 1887, to Edw. E. Perley. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 164.49 acres of land described above.

Contract No. 4,591.

Issued May 8, 1885, to Edw. E. Perley, for the southwest quarter of section 1, township 2 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $51.53. Deed issued April 14, 1887, to Edw. E. Perley. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 164.49 acres of land described above.

Contract No. 4,406.

Issued Feb. 28, 1885, to George T. Gower, for all fractional of section 3, township 2 south, range 7 west, S. B. M., 496.65 acres. Agreed purchase price, $2,979.90. Purchase price paid, $2,979.90; interest paid, $788.53. Deed issued Jan. 6, 1890, to Elon G. Fay. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 496.65 acres of land described above.

Contract No. 4,380.

Issued Feb. 24, 1885, to H. C. Gower, for all of section 11, township 2 south, range 7 west, S. B. M., 640 acres. Agreed purchase price, $3,840. Purchase price paid, $3,840; interest paid, $1,202.35. Deed issued Oct. 2, 1890, to S. M. Perry. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 640 acres of land described above.

Contract No. 3,964.

Issued Sept. 29, 1884, to Wm. D. Mosher, for the northeast quarter of section 13, township 2 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $154.11. Deed issued Aug. 23, 1887, to Wm. B. Mosher and E. P. Whitney. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 5,858.

Issued Aug. 18, 1886, to Geo. W. Sessions, for the east half of the northwest quarter of section 13, township 2 south, range 7 west, S. B. M., 80 acres. Agreed purchase

price, $480. Purchase price paid, $480; interest paid, $134.40. Deed issued Oct. 19, 1891, to Thomas Earley. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 5,859.

Issued Aug. 18, 1886, to Geo. W. Sessions, for the west half of the northwest quarter of section 13, township 2 south, range 7 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $145.22. Deed issued Feb. 13, 1892, to J. S. Bartlett. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,846.

Issued Aug. 14, 1884, to Wm. Peirce, for the northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, the west half of the southwest quarter, and lots 1, 2 and 3 of section 13, township 2 south, range 7 west, S. B. M., 237.71 acres. Agreed purchase price, $1,426.26. Purchase price paid, $1,426.26; interest paid, $383.81. Deed issued June 3, 1889, to W. C. Mosher. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 237.71 acres of land described above.

Contract No. 7,730.

Issued July 8, 1887, to Eachem McEachem, for the northwest quarter of the southeast quarter of section 15, township 2 south, range 7 west, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $———. Deed issued ————, to ————.

Present owner of contract, Eachem McEachem. Patent No. ———. Issued ————————, for ——— acres of land described above.

Contract No. 5,804.

Issued Aug. 2, 1886, to D. McDougal, for the west half of the northeast quarter of section 15, township 2 south, range 7 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $88.18. Deed issued Nov. 18, 1889, to D. McDougal. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,737.

Issued Aug. 4, 1885, to D. McDougal, for the southwest quarter of the southeast quarter, and lots 3 and 4 of section 15, township 2 south, range 7 west, S. B. M., 125.55 acres. Agreed purchase price, $753.30. Purchase price paid $753.30; interest paid, $180.31. Deed issued Nov. 18, 1889, to D. McDougal. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 125.55 acres of land described above.

Contract No. 3,161.

Issued Feb. 6, 1884, to Milton Santee, for lots 1 and 2 of section 5, township 2 south, range 7 west, S. B. M., 85.45 acres. Agreed purchase price, $512.70. Purchase price paid, $512.70; interest paid, $165.70. Deed issued Nov. 18, 1889, to D. McDougal. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 85.45 acres of land described above.

Contract No. 5,247.

Issued Jan. 27, 1886, to Martin Van Wig, for lot 3 of section 23, township 2 south, range 7 west, S. B. M., 14.19 acres. Agreed purchase price, $141.90. Purchase price paid, $141.90; interest paid, $———. Deed issued Feb. 1, 1886, to Martin Van Wig. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 14.19 acres of land described above.

Contract No. 6,115.

Issued Dec. 6, 1886, to James Mackel, for lot 4 of section 23, township 2 south, range 7 west, S. B. M., 33.81 acres. Agreed purchase price, $338.10. Purchase price paid, $67.62; interest paid, $37.86. Deed issued ————, to ————. Present owner of contract, Paul Denton. Patent No. 2. Issued April 4, 1879, for 33.81 acres of land described above.

Contract No. 5,839.

Issued Aug. 9, 1886, to Martin Van Wig, for the northwest quarter of the northeast quarter of section 23, township 2 south, range 7 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued Aug. 14, 1891, to Martin Van Wig. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 5,053.

Issued Dec. 11, 1885, to Martin Van Wig, for the northeast quarter of the northwest quarter of section 23, town-

ship 2 south, range 7 west, S. B. M., 40 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $113.25. Deed issued Jan. 8, 1891, to Martin Van Wig. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 3,180.

Issued Feb. 13, 1884, to Milton Santee, for lot 1 of section 23, township 2 south, range 7 west, S. B. M., 14.95 acres. Agreed purchase price, $149.50. Purchase price paid, $149.50; interest paid, $33.73. Deed issued March 10, 1888, to Martin Van Wig. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 14.95 acres of land described above.

Contract No. 3,183.

Issued Feb. 18, 1884, to Milton Santee, for lot 2 of section 23, township 2 south, range 7 west, S. B. M., 34.57 acres. Agreed purchase price, $345.70. Purchase price paid, $345.70; interest paid, $77.72. Deed issued March 10, 1888, to Martin Van Wig. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 34.57 acres of land described above.

Contract No. 10,699.

Issued Feb. 21, 1891, to Joseph Burdess, for lot 1 of section 27, township 2 south, range 7 west, S. B. M., 1.65 acres. Agreed purchase price, $33. Purchase price paid, $6.60; interest paid, $9.25. Deed issued ————, to ————. Present owner of contract, Joseph Bur-

dess. Patent No. 2. Issued April 4, 1879, for 1.65 acres of land described above.

Contract No. 10,700.

Issued Feb. 21, 1891, to Joseph Burdess, for lots 2 and 3 of section 27, township 2 south, range 7 west, S. B. M., 36.39 acres. Agreed purchase price, $727.80. Purchase price paid, $145.56; interest paid, $203.75. Deed issued ————, to ————. Present owner of contract, Joseph Burdess. Patent No. 2. Issued Aug. 15, 1894, for 36.39 acres of land described above.

Contract No. 2,934.

Issued Dec. 12, 1883, to Geo. W. Scott, for all of section 1, township 3 south, range 1 west, S. B. M., 634.84 acres. Agreed purchase price, $6,348.40. Purchase price paid, $6,348.40; interest paid, $1,416.12. Deed issued Dec. 17, 1887, to Geo. W. Scott. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 634.84 acres of land described above.

Contract No. 2,935.

Issued Dec. 12, 1883, to George C. Egan, for all of section 3 and northeast quarter of section 9, township 3 south, range 1 west, S. B. M., 766.72 acres. Agreed purchase price, $7,667.20. Purchase price paid, $7,667.20; interest paid, $1,257.66. Deed issued Nov. 19, 1886, to George C. Egan. Present owner of contract, ————. Patent No. 6, Issued Dec. 27, 1883, for 766.72 acres of land described above.

Contract No. 2,936.

Issued Dec. 12, 1883, to M. Mallam, for the northwest quarter of section 5, township 3 south, range 1 west, S. B. M., 131 acres. Agreed purchase price, $655. Purchase price paid, $655; interest paid, $92.54. Deed issued Jan. 14, 1887, to M. Mallam. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 131 acres of land described above.

Contract No. 3,785.

Issued July 2, 1884, to Arthur A. Curtis, for the northeast quarter of section 5, township 3 south, range 1 west, S. B. M., 133 acres. Agreed purchase price, $665.00. Purchase price paid, $665.00; interest paid, $186.20. Deed issued July 16, 1889, to Earl B. Miller. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 133 acres of land described above.

Contract No. 3,007.

Issued January 2, 1884, to A. J. Viele, for the south half of section 5, the northwest quarter of section 9, and the northwest quarter of section 15, township 3 south, range 1 west, S. B. M., 640 acres. Agreed purchase price, $6,400.00. Purchase price paid, $6,400.00; interest paid, $1,992.00. Deed issued Oct. 22, 1890, to A. J. Viele. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 32 acres of land described above. Also patent No. 9. Issued January 9, 1885, for 320 acres of land described above.

Contract No. 3,141.

Issued Feb. 2, 1884, to H. W. Hellman, for the northeast quarter of section 7, and the west half of the northeast quarter of section 15, township 3 south, range 1 west, S. B. M., 240 acres. Agreed purchase price, $2,400.00. Purchase price paid, $2,400.00; interest paid, $173.60. Deed issued May 19, 1885, to H. W. Hellman. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 240 acres of land described above.

Contract No. 6,452.

Issued March 9, 1887, to George Hendey, for the northwest quarter of section 7, township 3 south, range 1 west, S. B. M., 164.20 acres. Agreed purchase price, $410.50. Purchase price paid, $410.50; interest paid, $152.19. Deed issued April 13, 1894, to Mrs. La Belle Bibby. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 164.20 acres of land described above.

Contract No. 2,960.

Issued Dec. 14, 1883, to Joseph D. Parish, for the southeast quarter of section 9, township 3 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600.00; interest paid, $265.05. Deed issued Jan. 7, 1887, to A. H. Judson. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 160 acres of land described above.

Contract No. 3,006.

Issued Jan. 2, 1884, to R. A. Armstrong, for lots 1, 2, 3, and 4 of section 9, township 3 south, range 1 west, S. B.

M., 173.60 acres. Agreed purchase price, $434.00. Purchase price paid, $434.00; interest paid, $147.70. Deed issued Feb. 1, 1890, to R. A. Armstrong. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 45.10 acres of land described above. Also patent No. 9. Issued Jan. 9, 1885, for 128.50 acres of land described above.

Contract No. 2,971.

Issued Dec. 22, 1883, to Wm. Smith, for the north half of section 11, township 3 south, range 1 west, S. B. M., 320 acres. Agreed purchase price, $4,192.00. Purchase price paid, $4,192.00; interest paid, $255.76. Deed issued Sept. 28, 1885, to Wm. Smith. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 320 acres of land described above.

Contract No. 2,973.

Issued Dec. 22, 1883, to Wm. Smith, for the south half of section 11, township 3 south, range 1 west, S. B. M., 320 acres. Agreed purchase price, $4,192.00. Purchase price paid, $4,192.00; interest paid, $117.82. Deed issued Feb. 6, 1885, to Wm. Smith. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 320 acres of land described above.

Contract No. 2,933.

Issued Dec. 12, 1883, to R. P. Stewart, for the north half of section 13, township 3 south, range 1 west, S. B. M., 320 acres. Agreed purchase price, $3,200.00. Purchase price paid, $3,200.00; interest paid, $756.00. Deed issued Dec. 20, 1888, to R. P. Stewart. Present owner of contract,

————. Patent No. 9. Issued Jan. 9, 1885, for 320 acres of land described above.

Contract No. 4,627.

Issued May 20, 1885, to R. P. Stewart, for the southeast quarter of section 13, township 3 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $210.95. Deed issued March 18, 1892, to R. P. Stewart. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,617.

Issued May 18, 1885, to R. P. Stewart, for the southwest quarter of section 13, township 3 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $211.20. Deed issued March 18, 1892, to R. P. Stewart. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,185.

Issued Feb. 18, 1884, to W. R. Standefer, for the southwest quarter of section 15, township 3 south, range 1 west, S. B. M., 180.60 acres. Agreed purchase price, $790.12. Purchase price paid, $790.12; interest paid, $159.42. Deed issued Jan. 10, 1889, to Mary A. Smith and Herman C. Smith. Present owner of contract, ————. Patent No. 9. Issued Jan. 9, 1885, for 180.60 acres of land described above.

Contract No. 9,402.

Issued Feb. 27, 1888, to M. E. Bragdon, for all of section 19, township 3 south, range 1 west, S. B. M., 652 acres. Agreed purchase price, $652.00. Purchase price paid, $652.00; interest paid, $255.96. Deed issued March 14, 1895, to Mrs. M. E. Bragdon. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 652 acres of land described above.

Contract No. 4,618.

Issued May 18, 1885, to Jacques Laborde, for the west half of the northeast quarter and the east half of the northwest quarter of section 31, township 3 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $298.78. Purchase price paid, $298.78; interest paid, $84.70. Deed issued June 17, 1890, to Jacques Laborde. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,619.

Issued May 18, 1885, to Jacques Laborde, for the east half of the northeast quarter, the northwest quarter of the southeast quarter, the east half of the southeast quarter, and lots 1, 2, 3, 4, 5 and 6 of section 31, township 3 south, range 1 west, S. B. M., 375.50 acres. Agreed purchase price, $701.20. Purchase price paid, $701.20; interest paid, $198.36. Deed issued May 16, 1892, to Jacques Laborde. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 375.50 acres of land described above.

Contract No. 10,676.

Issued Jan. 2, 1891, to C. J. Monson, Jr., for the northeast quarter and south half of section 33, township 3 south, range 1 west, S. B. M., 480 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $201.60. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Co. Patent No. 18. Issued Oct. 7, 1891, for 480 acres of land described above.

Contract No. 10,677.

Issued Jan. 2, 1891, to C. J. Monson, Jr., for the northwest quarter of section 33, township 3 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $67.20. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Co. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 10,254.

Issued March 21, 1890, to James Graham, for the southwest quarter of the northeast quarter and lots 1 and 2 of section 7, township 3 south, range 2 west, S. B. M., 100.70 acres. Agreed purchase price, $1,208.40. Purchase price paid, $241.68; interest paid, $270.68. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Co. Patent No. 18. Issued Oct. 7, 1891, for 100.70 acres of land described above.

Contract No. 10,255.

Issued March 21, 1890, to James Graham, for the northwest quarter of the northeast quarter and lot 7 of section

7, township 3 south, range 2 west, S. B. M., 59.30 acres. Agreed purchase price, $711.60. Purchase price paid, $142.32; interest paid, $159.40. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 18. Issued Oct. 7, 1891, for 59.30 acres of land described above.

Contract No. 10,256.

Issued March 21, 1890, to James Graham, for the north half of the northwest quarter of section 7, township 3 south, range 2 west, S. B. M. (This tract was sold before survey for 80 acres; after survey it was found to contain 83.36 acres. The price was not, however, raised in consequence thereof.) 80 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $268.80. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 10,257.

Issued March 21, 1890, to James Graham, for the south half of the northwest qaurter of section 7, township 3 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $1,200. Purchase price paid, $240.00; interest paid, $268.80. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 10,258.

Issued March 21, 1890, to James Graham, for the north half of the southeast quarter and lots 5 and 6 of section 7, township 3 south, range 2 west, S. B. M., 134.51 acres. Agreed purchase price, $2,017.65. Purchase price paid, $403.53; interest paid, $451.92. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 18. Issued Oct. 7, 1891, for 134.51 acres of land described above.

Contract No. 10,259.

Issued March 21, 1890, to James Graham, for the north half of the southwest quarter and lots 3 and 4 of section 7, township 3 south, range 2 west, S. B. M., 138.09 acres. Agreed purchase price, $2,071.35. Purchase price paid, $414.27; interest paid, $464.00. Deed issued ———— to ————. Present owner of contract, Bear Valley Irrigation Company. Patent No. 18. Issued Oct. 7, 1891, for 138.09 acres of land described above.

Contract No. 10,763.

Issued May 27, 1891, to Frances Schlador, for all section 15, township 3 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $448.00. Deed issued ———— to ————. Present owner of contract, Mrs. Frances Schlador. Patent No. 25. Issued Aug. 15, 1894, for 640 acres of land described above.

Contract No. 10,880.

Issued Oct. 12, 1891, to Mrs. Frances Schlador, for lot 1 of section 21, township 3 south, range 2 west, S. B. M., 2.03 acres. Agreed purchase price, $20.00. Purchase price paid, $20.00; interest paid, $———. Deed issued ———— to ————. Present owner of contract, Mrs. Frances Schlador. Patent No. 25. Issued Aug. 15, 1894, for 2.03 acres of land described above.

Contract No. 6,236.

Issued Jan. 14, 1887, to John Ryan, for all section 23, township 3 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,120.00. Purchase price paid, $1,020; interest paid, $468.65. Deed issued ———— to ————. Present owner of contract, B. J. Inwall and Frank S. Ryan. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 11,435.

Issued June 3, 1896, to Stephen A. Hubbell, Henry F. de Souza and Frank S. Ryan, for all of section 25, township 3 south, range 2 west, S. B. M., 639.77 acres. Agreed purchase price, $1,199.57. Purchase price paid, $239.91; interest paid, $67.18. Deed issued ———— to ————. Present owner of contract, Stephen A. Hubbell, Henry F. de Souza and Frank S. Ryan. Patent No. 18. Issued Oct. 7, 1891, for 639.77 acres of land described above.

Contract No. 9,934.

Issued Oct. 10, 1888, to C. H. Condee, for the northwest quarter of section 3, township 3 south, range 3 west, S. B.

M., 163.51 acres. Agreed purchase price, $408.78. Purchase price paid, $408.78; interest paid, $75.39. Deed issued Jan. 26, 1892, to Geo. E. Otis. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 163.51 acres of land described above.

Contract No. 10,430.

Issued Sept. 1, 1890, to A. J. Condee, for the south half of section 3, township 3 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $3,200.00. Purchase price paid, $640.00; interest paid, $537.60. Deed issued ———— to ————. Present owner of contract, A. J. Condee. Patent No. 25. Issued Aug. 15, 1894, for 320 acres of land described above.

Contract No. 10,431.

Issued Sept. 1, 1890, to A. J. Condee, for the northwest quarter of section 11, township 3 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $880.00. Purchase price paid, $880.00; interest paid, $158.11. Quitclaim deed issued Nov. 21, 1893, to A. J. Condee. Present owner of contract, ————. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 6,425.

Issued March 7, 1887, to W. E. Atwater and R. K. Atwater, for the northeast quarter and the northeast quarter of the northwest quarter of section 9, township 3 south, range 4 west, S. B. M., 200 acres. Agreed purchase price, $740.00. Purchase price paid, $740.00; interest paid, $206.40. Deed issued March 18, 1892, to W. E. At-

water and Sarah L. Atwater. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 200 acres of land described above.

Contract No. 6,771.

Issued April 18, 1887, to Shirley C. Ward, for the east half of section 19, township 3 south, range 4 west, S. B. M., 320 acres. Agreed purchase price, $1,280.00. Purchase price paid, $1,280.00; interest paid, $438.04. Deed issued June 1, 1893, to Shirley C. Ward. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 6,917.

Issued April 28, 1887, to W. Taylour English, for the northwest quarter of section 19, township 3 south, range 4 west, S. B. M., 158.76 acres. Agreed purchase price, $476.28. Purchase price paid, $476.28; interest paid, $225.95. Deed issued Dec. 11, 1895, to M. K. Landen and The Pacific Bank. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 158.76 acres of land described above.

Contract No. 6,918.

Issued April 28, 1887, to W. Taylour English, for the southwest quarter of section 19, township 3 south, range 4 west, S. B. M., 158.80 acres. Agreed purchase price, $595.50. Purchase price paid, $595.50; interest paid, $165.29. Deed issued April 14, 1892, to Chas. A. White. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 158.80 acres of land described above.

Contract No. 6,834.

Issued April 22, 1887, to Thomas E. Beatty, for the south half of section 29, township 3 south, range 4 west, S. B. M., 320 acres. Agreed purchase price, $1,280.00. Purchase price paid, $256.00; interest paid, $573.44. Deed issued ———— to ————. Present owner of contract, Thomas E. Beatty and Mezzotint A. English. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 7,853.

Issued July 20, 1887, to Hjalmnar Newman, for all of section 31, township 3 south, range 4 west, S. B. M., 642.38 acres. Agreed purchase price, $1,605.95. Purchase price paid, $1,605.95; interest paid, $539.58. Deed issued July 10, 1893, to G. Olivia Newman. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 642.38 acres of land described above.

Contract No. 6,774.

Issued April 18, 1887, to Shirley C. Ward, for the northeast quarter of section 33, township 3 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $179.20. Deed issued April 20, 1892, to W. R. Spence. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,775.

Issued April 18, 1887, to Shirley C. Ward, for the northwest quarter of section 33, township 3 south, range 4 west,

S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $179.20. Deed issued April 20, 1892, to Everett B. Thomas. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,776.

Issued April 18, 1887, to Shirley C. Ward, for the southeast quarter of section 33, township 3 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $179.20. Deed issued May 31, 1892, to B. F. Frizzell. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,777.

Issued April 18, 1887, to Shirley C. Ward, for the southwest quarter of section 33, township 3 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $182.70. Deed issued May 31, 1892, to B. F. Frizzell. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,072.

Issued Nov. 22, 1886, to T. H. B. Chamblin, for the northeast quarter of section 1, township 3 south, range 5 west, S. B. M., 185.11 acres. Agreed purchase price, $647.88. Purchase price paid, $647.88; interest paid, $242.08. Deed issued Feb. 9, 1884, to T. H. B. Chamblin. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,692.

Issued April 8, 1887, to Frederick J. Cox, for the northwest quarter of section 1, township 3 south, range 5 west, S. B. M., 188.10 acres. Agreed purchase price, $752.40. Purchase price paid, $752.40; interest paid, $214.38. Deed issued May 11, 1892, to Frederick J. Cox. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 188.10 acres of land described above.

Contract No. 6,207.

Issued Jan. 3, 1887, to J. H. D. Cox, for the west half of the southeast qaurter of section 1, township 3 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $280.00. Purchase price paid, $280.00; interest paid, $78.40. Deed issued Jan. 16, 1892, to Joseph J. Deming and J. H. D. Cox. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,208.

Issued Jan. 3, 1887, to J. J. Deming, for the east half of the southeast quarter of section 1, township 3 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $280.00. Purchase price paid, $280.00; interest paid, $78.40. Deed issued Jan. 16, 1892, to Joseph J. Deming and J. H. D. Cox. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 7,999.

Issued Aug. 10, 1887, to W. F. Gill, for the southwest quarter of section 1, township 3 south, range 5 west, S. B.

M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $128.00. Deed issued April 26, 1893, to Will W. Beach. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,804.

Issued Dec. 2, 1887, to C. Behrendt and B. Guirado, for all of section 14, township 3 south, range 5 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $383.02. Deed issued March 18, 1892, to Alexander J. Mead. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 5,469.

Issued March 22, 1886, to Mrs. R. S. Wood, for the south half of the southeast quarter of section 15, township 3 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $58.80. Deed issued June 20, 1891, to Mrs. R. S. Wood. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,390.

Issued March 1, 1886, to Wilbur N. Chamblin, for the south half of the southwest quarter of section 15, township 3 south, range 5 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $22.70. Deed issued March 14, 1888, to Wilbur N. Chamblin. Present owner of contract,

———— Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 6,074.

Issued Nov. 22, 1886, to P. Gallagher, for the east half of section 21, township 3 south, range 5 west, S. B. M., 320 acres. Agreed purchase price, $2,800.00. Purchase price paid, $2,800.00; interest paid, $888.55. Deed issued July 25, 1892, to Riverside Trust Company, Limited. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 8,756.

Issued Nov. 7, 1887, to E. Memory, for the northeast quarter of section 23, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $161.50; interest paid, $186.52. Deed issued ———— to ————. Present owner of contract, E. Memory. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,757.

Issued Nov. 7, 1887, to E. Memory, for the northwest quarter of section 23, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $161.50; interest paid, $186.52. Deed issued ———— to ————. Present owner of contract, E. Memory. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,758.

Issued Nov. 7, 1887, to E. Memory, for the southeast quarter of section 23, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $161.50; interest paid, $186.52. Deed issued ———— to ————. Present owner of contract, E. Memory. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,759.

Issued Nov. 7, 1887, to E. Memory, for the southwest quarter of section 23, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $161.50; interest paid, $186.52. Deed issued ———— to ————. Present owner of contract, E. Memory. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,919.

Issued April 28, 1887, to W. Taylour English, for the northeast quarter of section 25, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $560.00. Purchase price paid, $560.00; interest paid, $155.40. Deed issued April 14, 1892, to Chas. A. White. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,920.

Issued April 28, 1887, to W. Taylour English, for the northwest quarter of section 25, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price,

$640.00. Purchase price paid, $640.00; interest paid, $247.89. Deed issued March 30, 1894, to Geo. S. Montgomery. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,921.

Issued April 28, 1887, to W. Taylour English, for the southwest quarter of section 25, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $166.50. Deed issued April 14, 1892, to Emil A. Bretzner. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,788.

Issued Nov. 25, 1887, to John S. Penprose, for the southeast quarter of section 25, township 3 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $98.20. Deed issued April 14, 1892, to John S. Penprose. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 9,662.

Issued June 6, 1888, to H. E. Taylor, for the north half, the north half of the southeast quarter, the north half of the southwest quarter of section 27, township 3 south, range 5 west, S. B. M., 480 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $336.00. Deed issued ———————— to ————————. Present owner of contract, Orlando A. Smith. Patent

No. 18. Issued Oct. 7, 1891, for 480 acres of land described above.

Contract No. 5,608.

Issued May 24, 1886, to Wilbur Chamblin, for lot 1 of section 5, township 3 south, range 7 west, S. B. M., 40.22 acres. Agreed purchase price, $120.66. Purchase price paid, $120.66; interest paid, $——. Deed issued June 3, 1886, to Wilbur N. Chamblin. Present owner of contract, ——————. Patent No. 2. Issued April 4, 1879, for 40.22 acres of land described above.

Contract No. 2,616.

Issued Dec. 6, 1882, to John Taylor, for fractional southwest quarter of section 7, township 3 south, range 7 west, S. B. M., 145.60 acres. Agreed purchase price, $364.00. Purchase price paid, $364.00; interest paid, $101.90. Deed issued Dec. 17, 1887, to John Taylor. Present owner of contract, ——————. Patent No. 2. Issued April 4, 1879, for 145.60 acres of land described above.

Contract No. 5,575.

Issued May 8, 1886, to Vicente Fernandez, for lots 7 and 8 of section 19, township 3 south, range 7 west, S. B. M., 87.18 acres. Agreed purchase price, $217.95. Purchase price paid, $217.95; interest paid, $93.90. Deed issued Jan. 16, 1894, to Jacob Baruch. Present owner of contract, ——————. Patent No. 2. Issued April 4, 1879, for 87.18 acres of land described above.

TRANSCRIPT OF RECORD.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. 190

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,

vs.

THE UNITED STATES OF AMERICA,
Appellees.

VOL. II.

(Pages 497 to 1024, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Filmer Brothers Co. Print, 424 Sansome St., S. F.

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Contract No. 5,748.

Issued July 7, 1887, to John S. Penprose, for lots 1 and 2 of section 29, township 3 south, range 5 west, S. B. M., 26.10 acres. Agreed purchase price, $65.25. Purchase price paid, $65.25; interest paid, $——. Deed issued July 12, 1886, to John S. Penprose. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 26.10 acres of land described above.

Contract No. 11,197.

Issued Aug. 15, 1892, to S. J. Branch, for fractional east half of southeast quarter and fractional northwest quarter of southeast quarter of section 9, township 4 south, range 1 west, S. B. M., 113.40 acres. Agreed purchase price, $5,000.00. Purchase price paid, $1,000.00; interest paid, $1,120.00. Deed issued ———— to ————. Present owner of contract, S. J. Branch. Patent No. —. Issued ————, for —— acres of land described above.

Contract No. 11,357.

Issued Feb. 21, 1895, to Sallie P. Warren, for fractional north half of section 21, township 4 south, range 2 west, S. B. M., 201.63 acres. Agreed purchase price, $756.11. Purchase price paid, $151.22; interest paid, $84.68. Deed issued ———— to ————. Present owner of contract, Mrs. Sallie P. Warren. Patent No. 31. Issued Feb. 12, 1896, for 201.63 acres of land described above.

Contract No. 11,405.

Issued Oct. 29, 1895, to C. S. Green, D. N. Alexander and A. L. Bundy, for the fractional south half of section

21, township 4 south, range 2 west, S. B. M., 294.41 acres. Agreed purchase price, $1,412.86. Purchase price paid, $282.57; interest paid, $79.12. Deed issued ———— to ————. Present owner of contract, C. S. Green, D. N. Alexander and A. L. Bundy. Patent No. 31. Issued Feb. 12, 1896, for 294.41 acres of land described above.

Contract No. 10,800.

Issued Aug. 26, 1891, to Dolores A. de Pico, for the fractional northeast quarter of section 25, township 4 south, range 2 west, S. B. M., 293.87 acres. Agreed purchase price, $2,524.83. Purchase price paid, $504.90; interest paid, $141.39. Deed issued ———— to ————. Present owner of contract, Dolores A. de Pico. Patent No. 28. Issued Dec. 22, 1894, for 293.87 acres of land described above.

Contract No. 11,345.

Issued July 18, 1894, to Mrs. Eliza B. Miller, for the northeast quarter of section 27, township 4 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———— to ————. Present owner of contract, Mrs. Eliza B. Miller. Patent No. 31. Issued Feb. 12, 1896, for 160 acres of land described above.

Contract No. 11,346.

Issued July 18, 1894, to Mrs. Eliza B. Miller, for the northwest quarter of section 27, township 4 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.-

80. Deed issued ————————, to ————————. Present owner of contract, Mrs. Eliza B. Miller. Patent No. 31. Issued Feb. 12, 1896, for 160 acres of land described above.

Contract No. 11,342.

Issued June 5, 1894, to Mrs. Elizabeth Gilmore, for the southwest quarter of section 27, township 4 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ————————, to ————————. Present owner of contract, Peter Lawson and A. J. Higgs. Patent No. 31. Issued Feb. 12, 1896, for 160 acres of land described above.

Contract No. 11,341.

Issued June 5, 1894, to Edwin J. Wilbur, for all of fractional section 29, township 4 south, range 2 west, S. B. M., 568.03 acres. Agreed purchase price, $1,420.08. Purchase price paid, $1,420.08; interest paid, $159.04. Deed issued ————————, to ————————. Present owner of contract, Edwin J. Wilbur. Patent No. 31. Issued Feb. 12, 1896, for 568.03 acres of land described above.

Contract No. 11,348.

Issued Aug. 14, 1894, to Pierre Blumaire, for all of fractional section 33, township 4 south, range 2 west, S. B. M., 638.14 acres. Agreed purchase price, $1,595.35. Purchase price paid, $319.07; interest paid, $89.33. Deed issued ————————, to ————————. Present owner of contract, Pierre Blumaire. Patent No. 31. Issued Feb. 12, 1896, for 638.14 acres of land described above.

Contract No. 10,111.

Issued June 27, 1889, to Eli Wharton, for lots 1 and 2 of section 7, township 4 south, range 3 west, S. B. M., 72.05 acres. Agreed purchase price, $1,152.80. Purchase price paid, $1,152.80; interest paid, $230.05. Deed issued April 2, 1895, to Eli Wharton. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 72.05 acres of land described above.

Contract No. 10,112.

Issued June 27, 1889, to Chas. B. Bullock, for the fractional northwest quarter of section 7, township 4 south, range 3 west, S. B. M., 166.77 acres. Agreed purchase price, $2,668.32. Purchase price paid, $533.66; interest paid, $1,195.44. Deed issued ————————, to ————————. Present owner of contract, Geo. W. Cope. Patent No. 28. Issued Dec. 22, 1894, for 166.77 acres of land described above.

Contract No. 10,139.

Issued Aug. 1, 1889, to Jane Pettit, for the northwest quarter of the southeast quarter, and lot 3 of section 7, township 4 south, range 3 west, S. B. M., 71.81 acres. Agreed purchase price, $1,148.96. Purchase price paid, $229.79; interest paid, $386.04. Deed issued ————————, to ————————. Present owner of contract, George B. Knight. Patent No. 28. Issued Dec. 22, 1894, for 71.81 acres of land described above.

Contract No. 10,131.

Issued July 24, 1889, to D. G. Mitchell, for the south half of the southeast quarter, and the south half of the

southwest quarter of section 7, township 4 south, range 3 west, S. B. M., 163.27 acres. Agreed purchase price, $2,612.32. Purchase price paid, $522.46; interest paid, $731.45. Deed issued ————, to ————. Present owner of contract, D. G. Mitchell. Patent No. 28. Issued Dec. 22, 1894, for 163.27 acres of land described above.

Contract No. 10,120.

Issued July 1, 1889, to Geo. W. Best, for the north half of the southwest quarter of section 7, township 4 south, range 3 west, S. B. M., 83.28 acres. Agreed purchase price, $1,332.48. Purchase price paid, $266.49; interest paid, $522.34. Deed issued ————, to ————. Present owner of contract, Sidney Arnold. Patent No. 28. Issued Dec. 22, 1894, for 83.28 acres of land described above.

Contract No. 10,113.

Issued June 27, 1889, to Fred Chandler, for the fractional northwest quarter of section 17, township 4 south, range 3 west, S. B. M., 104.50 acres. Agreed purchase price, $1,672.00. Purchase price paid, $334.40; interest paid, $842.67. Deed issued ————, to ————. Present owner of contract, Fred Chandler. Patent No. 28. Issued Dec. 22, 1894, for 104.50 acres of land described above.

Contract No. 10,114.

Issued June 27, 1889, to V. V. Stevison, for the fractional southeast quarter of section 17, township 4 south, range 3 west, S. B. M., 40.63 acres. Agreed purchase price, $650.08. Purchase price paid, $130.02; interest

paid, $109.20. Deed issued ————, to ————. Present owner of contract, J. F. Hook. Patent No. 28. Issued Dec. 22, 1894, for 40.63 acres of land described above.

Contract No. 10,115.

Issued June 27, 1889, to Charles Whiting, for the southwest quarter of section 17, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,560.00. Purchase price paid, $2,560.00; interest paid, $860.16. Deed issued July 2, 1895, to John A. Whiting. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,782.

Issued Aug. 26, 1885, to Wm. B. Doyle, for the northeast quarter of section 19, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $960.00; interest paid, $278.18. Deed issued April 22, 1895, to Bradford Morse, the undivided three-quarter and P. F. Peterson, the undivided quarter. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,783.

Issued Aug. 26, 1885, to Horatio N. Doyle and Wm. B. Doyle, for the southeast quarter of section 19, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $960.00; interest paid, $281.12. Deed issued March 14, 1895, to Horatio N. Doyle. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,756.

Issued Aug. 19, 1885, to Frank E. Stevens, for the northwest quarter of section 19, township 4 south, range 3 west, S. B. M., 166.12 acres. Agreed purchase price, $830.60. Purchase price paid, $830.60; interest paid, $465.10. Deed issued Aug. 28, 1895, to Frank E. Stevens. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 166.12 acres of land described above.

Contract No. 4,870.

Issued Oct. 2, 1885, to Horatio N. Doyle, for the southwest quarter of section 19, township 4 south, range 3 west, S. B. M., 166.04 acres. Agreed purchase price, $830.20. Purchase price paid, $830.20; interest paid, $234.27. Deed issued Jan. 7, 1892, to D. G. Mitchell. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 166.04 acres of land described above.

Contract No. 5,294.

Issued Feb. 8, 1886, to C. O. Perrine, for lots 1, 2 and 3 of section 21, township 4 south, range 3 west, S. B. M., 75.51 acres. Agreed purchase price, $302.04. Purchase price paid, $302.04; interest paid, $101.46. Deed issued March 28, 1892, to C. O. Perrine. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 166.04 acres of land described above.

Contract No. 10,110.

Issued June 27, 1889, to Chas E. Gyger, for the northeast quarter of the northeast quarter of section 25, township 4 south, range 3 west, S. B. M., 40 acres. Agreed

purchase price, $360.00. Purchase price paid, $70.00; interest paid, $100.80. Deed issued ————, to ————. Present owner of contract, Fredk. T. Field. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 10,110 A.

Issued June 27, 1889, to Chas. E. Gyger, for the northwest quarter of the northeast quarter of section 25, township 4 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $360.00. Purchase price paid, $72.00; interest paid, $100.80. Deed issued ————, to ————. Present owner of contract, Fredk. T. Field. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 10,110 B.

Issued June 27, 1889, to Chas. E. Gyger, for the southeast quarter of the northeast quarter of section 25, township 4 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $360.00. Purchase price paid, $72.00; interest paid, $100.80. Deed issued ————, to ————. Present owner of contract, Fredk. T. Field. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 10,110 C.

Issued June 27, 1889, to Charles E. Gyger, for the southwest quarter of the northeast quarter of section 25, township 4 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $360.00. Purchase price paid, $72.00; interest paid, $100.80. Deed issued ————, to ————. Present owner of contract, Fredk. T. Field. Patent No.

25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 10,287.

Issued April 21, 1890, to Matilda Perry, for the southeast quarter of the northwest quarter, and lots 1 and 2 of section 25, township 4 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $1,280.00. Purchase price paid, $1,280.00; interest paid, $209.26. Deed issued July 2, 1895, to Samuel A. Harsh. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 80 acres of land described above.

Contract No. 10,288.

Issued April 21, 1890, to Chas. W. Allen, for the southwest quarter of section 25, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,400.00. Purchase price paid, $980.00; interest paid, $806.40. Deed issued ————————, to ————————. Present owner of contract, M. M. Gillispie and Chas. Lloyd. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 4,800.

Issued Aug. 31, 1885, to F. S. Volk, for the northeast quarter of section 29, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $160.00; interest paid, $448.00. Deed issued ————————, to ————————. Present owner of contract, Fredk. T. Field. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,748.

Issued Aug. 17, 1885, to Robt. B. Herron, for the north half of the northwest quarter of section 29, township 4 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $131.62. Deed issued April 11, 1895, to James Patterson, Jr., I. W. Hazelett and J. F. Hamilton. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 80 acres of land described above.

Contract No. 4,749.

Issued Aug. 17, 1885, to Wm. J. Guthrie, for the south half of the northwest quarter of section 29, township 4 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $134.40. Deed issued ————, to ————. Present owner of contract, Thomas Gilbert. Patent No. 28. Issued Dec. 22, 1894, for 80 acres of land described above.

Contract No. 4,775.

Issued Aug. 25, 1885, to J. P. Hight and T. J. Fording, for the north half of the southeast quarter of section 29, township 4 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $112.00. Deed issued ————, to ————. Present owner of contract, Walter Bennett. Patent No. 28. Issued Dec. 22, 1894, for 80 acres of land described above.

Contract No. 4,774.

Issued Aug. 25, 1885, to J. P. Hight and T. J. Fording, for the south half of the southeast quarter of section 29, township 4 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $50.85. Deed issued May 2, 1896, to Lucy Alice Crawford. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 80 acres of land described above.

Contract No. 4,731.

Issued July 30, 1885, to J. W. Crittenden, for the southwest quarter of section 29, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $960.00; interest paid, $336.00. Deed issued ————, to ————. Present owner of contract, W. S. Wise and Mary A. Jarvis. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,792.

Issued Aug. 27, 1885, to T. J. Fording, for the northeast quarter of section 31, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $15.29. Deed issued Feb. 20, 1895, to T. J. Fording. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 5,295.

Issued Feb. 8, 1886, to C. O. Perrine, for the northwest quarter of section 31, township 4 south, range 3 west, S.

B. M., 166.72 acres. Agreed purchase price, $416.80. Purchase price paid, $416.80; interest paid, $66.13. Deed issued Feb. 8, 1886, to C. O. Perrine. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 166.72 acres of land described above.

Contract No. 4,732.

Issued July 30, 1885, to J. A. Peron, for the southeast quarter of section 31, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $94.62. Deed issued March 22, 1895, to Sarah S. Peron. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,801.

Issued Aug. 31, 1885, to A. F. Cornell, for the southwest quarter of section 31, township 4 south, range 3 west, S. B. M., 165.81 acres. Agreed purchase price, $663.24. Purchase price paid, $663.24; interest paid, $217.70. Deed issued ————————, to ————————. Present owner of contract, S. H. Witt. Patent No. 28. Issued Dec. 22, 1894, for 165.81 acres of land described above.

Contract No. 4,803.

Issued Aug. 31, 1885, to A. E. Preston, for the northeast quarter, and the southwest quarter of section 33, township 4 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $880.00. Purchase price paid, $880.00; interest paid, $263.10. Deed issued ————————, to ————————. Present owner of contract, A. E. Preston. Patent No. 28. Issued Dec. 22, 1894, for 320 acres of land described above.

Contract No. 4,733.

Issued July 30, 1885, to Frank M. Coppel, for the northwest quarter of section 33, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $80.64. Deed issued June 7, 1895, to Orville A. Cravath. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,834.

Issued Sept. 14, 1885, to Robert J. Morison, for the southeast quarter of section 33, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $112.00. Deed issued March 10, 1892, to Robt. J. Morison. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 10,121.

Issued July 6, 1889, to James E. Mack, for the northeast quarter of section 35, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,400.00. Purchase price paid, $480.00; interest paid, $537.60. Deed issued ————————, to ————————. Present owner of contract, Arthur P. Morse and Windsor C. J[illegible]son. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,116.

Issued June 27, 1889, to F. S. Plimpton, for the northwest quarter of section 35, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,080.00.

Purchase price paid, $2,073.74; interest paid, $741.67. Deed issued ————, to ————. Present owner of contract, Mrs. R. L. Harford. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,133.

Issued July 26, 1889, to W. C. Clark and E. C. Seymour, for the southeast quarter of section 35, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,400.00. Purchase price paid, $2,400.00; interest paid, $218.40. Deed issued ————, to ————. Present owner of contract, Hettie Harsh. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,117.

Issued June 27, 1889, to A. A. Courteney, for the southwest quarter of section 35, township 4 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $2,560.00. Purchase price paid, $512.00; interest paid, $1,003.52. Deed issued ————, to ————. Present owner of contract, Samuel C. Wason. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 7,879.

Issued July 30, 1887, to Bernardino Gunado, for the northeast quarter of section 1, township 4 south, range 4 west, S. B. M., 148.20 acres. Agreed purchase price, $2,223.00. Purchase price paid, $2,223.00; interest paid, $373.47. Deed issued March 18, 1892, to A. H. Naftzger. Present owner of contract, ————. Patent No. 18.

Issued Oct. 7, 1891, for 148.20 acres of land described above.

Contract No. 7,881.

Issued July 30, 1887, to Bernardino Guirado, for the northwest quarter of section 1, township 4 south, range 4 west, S. B. M., 154.28 acres. Agreed purchase price, $2,314.20. Purchase price paid, $2,314.20; interest paid, $388.77. Deed issued March 18, 1892, to A. H. Naftzger. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 154.28 acres of land described above.

Contract No. 7,880.

Issued July 30, 1887, to Bernardino Guirado, for the southeast quarter of section 1, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $2,400.00. Purchase price paid, $2,400.00; interest paid, $403.20. Deed issued March 18, 1892, to A. H. Naftzger. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,917.

Issued July 30, 1887, to Bernardino Guirado, for the north half of the southwest quarter of section 1, township 4 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $1,260.00. Purchase price paid, $1,260.00; interest paid, $211.68. Deed issued March 18, 1892, to A. H. Naftzger. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 7,916.

Issued July 30, 1887, to John A. Walls, for the south half of the southwest quarter of section 1, township 4 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $1,260.00. Purchase price paid, $1,260.00; interest paid, $440.65. Deed issued June 15, 1894, to Warren Keeler. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 11,278.

Issued April 12, 1893, to Mrs. Elizabeth Nevin, for the south half of the northeast quarter of section 9, township 4 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $800.00. Purchase price paid, $160.00; interest paid, $134.40. Deed issued ————, to ————. Present owner of contract, Mrs. Elizabeth Nevin. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 7,906.

Issued July 30, 1887, to Jean Oligit, for the northwest quarter of section 9, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $———. Deed issued Aug. 30, 1892, to Jean Oligit. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,354.

Issued Jan. 16, 1895, to S. J. Darrah, for the southeast quarter of section 9, township 4 south, range 4 west, S.

R. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $89.60. Deed issued ————, to ————. Present owner of contract, S. J. Darrah. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,288.

Issued May 29, 1893, to Chas. W. Hall, for the northwest quarter of section 11, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $12.20. Deed issued Dec. 16, 1893, to Chas. W. Hall. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,886.

Issued July 30, 1887, to Bernardino Guirado, for the northeast quarter of section 11, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $396.75. Deed issued Jan. 16, 1892, to D. G. Mitchell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,887.

Issued July 30, 1887, to Bernardino Guirado, for the southeast quarter of section 11, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $615.20. Deed issued June 27, 1894, to J. F. Hook. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,889.

Issued July 30, 1887, to Bernardino Guirado, for the southwest quarter of section 11, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $183.43. Deed issued Sept. 22, 1894, to George H. Sawyer and Fred Chandler. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,892.

Issued July 30, 1887, to D. McCunn and J. W. Nance, for the north half of section 13, township 4 south, range 4 west, S. B. M., 320 acres. Agreed purchase price, $3,200.00. Purchase price paid, $3,200.00; interest paid, $876.10. Deed issued June 23, 1892, to A. H. Naftzger. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 7,896.

Issued July 30, 1887, to Geo. P. Oakes, for the southeast quarter of section 13, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,440.00. Purchase price paid, $1,440.00; interest paid, $293.21. Deed issued Jan. 16, 1892, to Geo. P. Oakes. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,392.

Issued July 10, 1895, to Wm. Henry Hall, for the north half of the southwest quarter of section 13, township 4

south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $44.80. Deed issued ————, to ————. Present owner of contract, Wm. Henry Hall. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 11,423.

Issued April 13, 1896, to F. Chandler and G. H. Sawyer, for the south half of the southwest quarter of section 13, township 4 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $11.20. Deed issued ————, to ————. Present owner of contract, F. Chandler and G. H. Sawyer. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 7,897.

Issued July 30, 1887, to Thomas Dodds, for the northwest quarter of section 15, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $423.62. Deed issued April 12, 1892, to J. F. Towell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 161 acres of land described above.

Contract No. 7,918.

Issued July 30, 1887, to Thomas Dodds, for the southwest quarter of section 15, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,488.00. Purchase price paid, $1,488.00; interest paid, $391.97. Deed issued April 27, 1892, to J. F. Towell. Present

owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,902.

Issued July 30, 1887, to Geo. H. Rice, for all of section 21, township 4 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $2,240.00. Purchase price paid, $2,240.00; interest paid, $593.01. Deed issued April 27, 1892, to J. F. Towell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 7,904.

Issued July 30, 1887, to F. H. Carpenter and C. E. Gyger, for all of section 25, township 4 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $2,240.00. Purchase price paid, $2,240.00; interest paid, $1,023.83. Deed issued Nov. 13, 1895, to Carrie B. Sherwood and Fredk. Straw. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 8,378.

Issued Sept. 19, 1887, to J. P. Hargrave, A. N. Little and Chas. R. Gray, for all of section 27, township 4 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $620.20. Deed issued April 22, 1895, to A. N. Little, Chas. R. Gray and Emma R. Gray. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 11,410.

Issued Jan. 9, 1886, to Henry W. Carter, for the south half of the northeast quarter, and the south half of the northwest quarter of section 33, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,440.00. Purchase price paid, $288.00; interest paid, $80.64. Deed issued ————, to ————. Present owner of contract, Henry W. Carter. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,427.

Issued April 27, 1896, to Fred. R. Carter, for the south half of section 33, township 4 south, range 4 west, S. B. M., 320 acres. Agreed purchase price, $800.00. Purchase price paid, $160.00; interest paid, $44.80. Deed issued ————, to ————. Present owner of contract, Fred R. Carter. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 7,907.

Issued July 30, 1887, to Thomas Kelley and Wm. Wright, for the northeast quarter of section 35, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $192.00; interest paid, $248.80. Deed issued ————, to ————. Present owner of contract, Thomas Kelley and Wm. Wright. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,908.

Issued July 30, 1887, to Thomas Kelley and Wm. Wright, for the northwest quarter of section 35, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $192.00; interest paid, $161.38. Deed issued ————, to ————. Present owner of contract, Thomas Kelley and Wm. Wright. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,905.

Issued July 30, 1887, to Nathan Philbrook and W. J. Blair, for the southwest quarter of section 35, township 4 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $320; interest paid, $716.80. Deed issued ————, to ————. Present owner of contract, E. H. Morse. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,413.

Issued Feb. 3, 1896, to W. E. Pedley, for fractional east half of the southwest quarter and fractional southeast quarter of section 5, township 4 south, range 6 west, S. B. M., 246 acres. Agreed purchase price, $818. Purchase price paid, $163.60; interest paid, $45.80. Deed issued ————, to ————. Present owner of contract, W. E. Pedley. Patent No. 2. Issued April 4, 1879, for 246 acres of land described above.

Contract No. 5,305.

Issued Feb. 12, 1886, to Mrs. Lillian B. Hoag, for lots 4 and 5, section 5, township 4 south, range 6 west, S. B. M., 80.40 acres. Agreed purchase price, $221.10. Purchase price paid, $221.10; interest paid, $——. Deed issued Feb. 20, 1886, to Mrs. Lillian B. Hoag. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80.40 acres of land described above.

Contract No. 3,771.

Issued July 1, 1884, to Abram Hoag, for fractional southwest quarter of section 9, township 4 south, range 6 west, S. B. M., 170.33 acres. Agreed purchase price, $425.83. Purchase price paid, $425.83; interest paid, $64.24. Deed issued April 5, 1887, to Mrs. Lillian D. Hoag. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 170.33 acres of land described above.

Contract No. 2,286.

Issued April 10, 1882, to Abram Hoag, for lots 1, 2, 3 and 4, section 17, township 4 south, range 6 west, S. B. M., 156.27 acres. Agreed purchase price, $390.68. Purchase price paid, $390.68; interest paid, $——. Deed issued April 27, 1882, to Abram Hoag. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 156.27 acres of land described above.

Contract No. 5,306.

Issued Feb. 12, 1886, to Mrs. Lillian D. Hoag, for the south half of the northeast quarter; south half of the northwest quarter and the south half of section 17, town-

ship 4 south, range 6 west, S. B. M., 474.68 acres. Agreed purchase price, $1,186.70. Purchase price paid, $1,186.70; interest paid, $71.98. Deed issued April 14, 1887, to Mrs. Lillian D. Hoag. Present owner of contract, ———. Patent No. 2. Issued April 4, 1879, for 474.68 acres of land described above.

Contract No. 11,304.

Issued Aug. 23, 1893, to William Yong Dameron, for the southeast quarter of section 19, township 4 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $67.20. Deed issued ———, to ———. Present owner of contract, William Yong Dameron. Patent No. —. Issued ———, for —— acres of land described above.

Contract No. 2,564.

Issued Nov. 8, 1882, to George A. Craw, for lots 1, 2, 7 and 8, section 21, township 4 south, range 6 west, S. B. M., 192.83 acres. Agreed purchase price, $1,538.68. Purchase price paid, $1,538.68; interest paid, $330.29. Deed issued Oct. 2, 1886, to George A. Craw and Nancy E. Craw. Present owner of contract, ———. Patent No. 4. Issued June 26, 1882, for 97.41 acres of land described above. Also patent No. 2. Issued April 4, 1879, for 95.42 acres of land described above.

Contract No. 792.

Issued March 13, 1880, to George A. Craw, for lot 9, section 21, township 4 south, range 6 west, S. B. M., 42.63 acres. Agreed purchase price, $147.07. Purchase price

paid, $147.07; interest paid, $——. Deed issued March 16, 1880, to George A. Craw. Present owner of contract, ——————. Patent No. 2. Issued April 18, 1879, for 42.63 acres of land described above.

Contract No. 4,232.

Issued Jan. 28, 1885, to A. H. Brown, for lot 12, section 21, and fractional northwest quarter of section 27, township 4 south, range 6 west, S. B. M., 204.48 acres. Agreed purchase price, $754.53. Purchase price paid, $754.53; interest paid, $211.25. Deed issued Feb. 1, 1890, to A. H. Brown. Present owner of contract, ——————. Patent No. 2. Issued April 4, 1879, for 204.48 acres of land described above.

Contract No. 5,622.

Issued June 2, 1886, to C. O. Perrine, for fractional northeast quarter of section 27, township 4 south, range 6 west, S. B. M., 190.99 acres. Agreed purchase price, $525.22. Purchase price paid, $525.22; interest paid, $118.46. Deed issued June 11, 1890, to South Riverside Land & Water Co. Present owner of contract, ——————. Patent No. 2. Issued April 4, 1879, for 190.99 acres of land described above.

Contract No. 5,623.

Issued June 2, 1886, to C. O. Perrine, for fractional southeast quarter of section 27, township 4 south, range 6 west, S. B. M., 166.26 acres. Agreed purchase price, $640.10. Purchase price paid, $640.10; interest paid, $144.36. Deed issued June 11, 1890, to South Riverside Land & Water Co. Present owner of

contract, ————————. Patent No. 2. Issued April 4, 1879, for 166.26 acres of land described above.

Contract No. 5,568.

Issued May 7, 1886, to Joseph Mac Gillivray, for the southwest quarter of section 27, township 4 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $43.60. Deed issued April 23, 1888, to Joseph *Mc*Gillivray. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 11,305.

Issued Sept. 1, 1893, to John A. Beanlien, for the west half of section 29, township 4 south, range 6 west, S. B. M., 320 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $44.80. Deed issued ———————, to ————————. Present owner of contract, John *H*. Beanlien. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 797.

Issued March 16, 1880, to George Anderson, for the east half of the northeast quarter of section 33, township 4 south, range 6 west, S. B. M., 80 acres. Agreed purchase price, $250. Purchase price paid, $250; interest paid, $60. Deed issued March 19, 1883, to George Anderson. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,357.

Issued July 24, 1882, to Henry J. Dull, for the southeast quarter of the southeast quarter of section 33, township 4 south, range 6 west, and lot 4, section 3, township 5 south, range 6 west, S. B. M., 79 acres. Agreed purchase price, $207. Purchase price paid, *$207.50;* interest paid, $56.30. Deed issued June 27, 1887, to Henry J. Dull. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above. Also patent No. 3. Issued Dec. 2, 1880, for 39 acres of land described above.

Contract No. 5,569.

Issued May 7, 1886, to A. H. Brown, for the west half of the northeast quarter of section 33, township 4 south, range 6 west, S. B. M., 80 acres. Agreed purchase price, $250. Purchase price paid, $250; interest paid, $18. Deed issued Sept. 29, 1887, to A. H. Brown. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,999.

Issued Oct. 17, 1884, to Donald R. Stevenson, for the northeast quarter of the southeast quarter and the west half of the southeast quarter of section 33, township 4 south, range 6 west, S. B. M., 120 acres. Agreed purchase price, $330. Purchase price paid, $330; interest paid, $55.09. Deed issued Oct. 21, 1887, to Donald R. Stevenson. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 7,369.

Issued May 20, 1887, to D. R. Stevenson, for the west half of section 33, township 4 south, range 6 west, S. B. M., 320 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $448. Deed issued ——— ———, to ———————. Present owner of contract, B. Jastrowitz. Patent No. —. Issued ————————, for ——— acres of land described above.

Contract No. 5,625.

Issued June 2, 1886, to C. O. Perrine, for the northeast quarter of section 35, township 4 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $90.22. Deed issued June 11, 1890, to South Riverside Land & Water Co. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 5,624.

Issued June 2, 1886, to C. O. Perrine, for the north half of the northwest quarter of section 35, township 4 south, range 6 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $80.64. Deed issued April 16, 1889, to South Riverside Land & Water Co. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,142.

Issued Dec. 19, 1884, to Patrick Gallagher, for the southeast quarter and the east half of the southwest quarter of section 35, township 4 south, range 6 west, S. B. M.,

240 acres. Agreed purchase price, $750. Purchase price paid, $750; interest paid, $——. Deed issued Dec. 29, 1884, to Patrick Gallagher. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 240 acres of land described above.

Contract No. 7,998.

Issued Aug. 10, 1887, to Edward Carroll, for fractional northwest quarter of section 7, township 5 south, range 1 west, S. B. M., 111.88 acres. Agreed purchase price, $391.58. Purchase price paid, $391.58; interest paid, $——. Quitclaim deed issued Aug. 30, 1887, to Edward Carroll. Present owner of contract, ————. Patent No. —. Issued, ————, for ——— acres of land described above.

Contract No. 7,823.

Issued July 15, 1887, to T. Angie Swope, for the northwest quarter of the northeast quarter and lot 4 of section 7, township 5 south, range 1 west, S. B. M., 56 acres. Agreed purchase price, $196. Purchase price paid, $196; interest paid, $———. Quitclaim deed issued Aug. 8, 1887, to *E.* Angie Swope. Present owner of contract, ———— ——. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 9,615.

Issued May 16, 1888, to Hemet Land Company, for the northeast quarter of section 23, township 5 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $4,000. Purchase price paid, $4,000; interest paid, $1,315.37. Deed issued April 2, 1894, to Hemet Land Company.

Present owner of contract, ————————. Patent No. 12. Issued Jan. 29, 1891, for 160 acres of land described above.

Contract No. 9,631.

Issued May 24, 1888, to H. M. Johnston, for fractional south half of section 23, township 5 south, range 1 west, S. B. M., 306.19 acres. Agreed purchase price, $765.48. Purchase price paid, $765.48; interest paid, $144.63. Deed issued Oct. 19, 1891, to John S. Griffin. Present owner of contract, ————————. Patent No. 12. Issued Jan. 29, 1891, for 306.19 acres of land described above.

Contract No. 9,614.

Issued May 14, 1888, to W. E. Simmons, for all of section 25, township 5 south, range 1 west, S. B. M., 640 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $223. Deed issued Sept. 18, 1894, to I. B. Newton and H. W. Latham. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 640 acres of land described above.

Contract No. 10,455.

Issued Sept. 23, 1890, to J. G. Miller, for the northeast quarter and lots 1 and 2, section 27, township 5 south, range 1 west, S. B. M., 260.76 acres. Agreed purchase price, $3,389.88. Purchase price paid, $677.97; interest paid, $379.66. Deed issued ————————, to ———— ————. Present owner of contract, J. G. Miller. Patent No. 25. Issued Aug. 15, 1894, for 260.76 acres of land described above.

Contract No. 11,282.

Issued April 19, 1893, to Isaac M. Gibbel, for lots 3 and 4 of section 29, township 5 south, range 1 west, S. B. M., 81.17 acres. Agreed purchase price, $324.68. Purchase price paid, $64.94; interest paid, $72.72. Deed issued ——— ———, to ———————. Present owner of contract, Isaac M. Gibbel. Patent No. —. Issued ———————, for ——— acres of land described above.

Contract No. 11,431.

Issued May 2, 1896, to Ransom B. Sheldon, for fractional north half of section 31, township 5 south, range 1 west, S. B. M., 323.29 acres. Agreed purchase price, $808.22. Purchase price paid, $161.65; interest paid, $45.25. Deed issued ———————, to ———————. Present owner of contract, Ransom B. Sheldon. Patent No. —. Issued ———————, for ——— acres of land described above.

Contract No. 10,140.

Issued Aug. 1, 1889, to R. B. Cadd, for the southeast quarter of section 31, township 5 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $320; interest paid, $268.80. Deed issued ———————, to ———————. Present owner of contract, R. B. Cadd. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,341.

Issued May 27, 1890, to Peter Milliken, for the southwest quarter of section 31, township 5 south, range 1

west, S. B. M., 160.75 acres. Agreed purchase price, $803.75. Purchase price paid, $160.75; interest paid, $270.06. Deed issued ————, to ————. Present owner of contract, Peter Milliken. Patent No. 25. Issued Aug. 15, 1894, for 160.75 acres of land described above.

Contract No. 10,141.

Issued Aug. 1, 1889, to James G. Roripough, for lots 1 and 2, section 33, township 5 south, range 1 west, S. B. M., 33.72 acres. Agreed purchase price, $337.20. Purchase price paid, $337.20; interest paid, $57.97. Deed issued Nov. 3, 1894, to James M. Browning. Present owner of contract, ————. Patent No. 25. Issued Aug. 15, 1894, for 33.72 acres of land described above.

Contract No. 9,613.

Issued May 14, 1888, to J. S. Stillman, for the northeast quarter of section 35, township 5 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $179.20. Deed issued ————, to ————. Present owner of contract, D. Bridenstine. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 2,759.

Issued April 28, 1883, to George W. Thurston, Jr., for the northwest quarter of the northeast quarter; the south half of the northeast quarter; the north half of the southeast quarter of section 1, township 5 south, range 2 west, S. B. M., 200 acres. Agreed purchase price, $620. Purchase price paid, $620; interest paid, $172.75. Deed issued

April 21, 1888, to George W. Thurston, Jr. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 200 acres of land described above.

Contract No. 2,760.

Issued April 28, 188 , to H. S. Goff, for the south half of the southeast quarter of section 1, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $260. Purchase price paid, $260; interest paid, $72. Deed issued April 13, 1888, to J. D. Platt. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,149.

Issued Jan. 16, 1885, to George W. Thurston, for the northeast quarter of the northeast quarter of section 1, township 5 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $160. Purchase price paid, $160; interest paid, $43.30. Deed issued Nov. 19, 1889, to Mrs. Minnie L. Thurston. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 4,154.

Issued Dec. 29, 1884, to A. Goodwin and W. W. Martin, for the east half of the northwest quarter and the east half of the southwest quarter of section 1, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $560. Purchase price paid, $560; interest paid, $190.78. Deed issued Feb. 7, 1891, to S. F. McFadden. Present owner of contract, ————————. Patent

No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 11,412.

Issued Jan. 24, 1896, to J. S. Robinson, for the northeast quarter of section 3, township 5 south, range 2 west, S. B. M., 160.69 acres. Agreed purchase price, $401.73. Purchase price paid, $80.35; interest paid, $22.50. Deed issued ————, to ————. Present owner of contract, J. S. Robinson. Patent No. 25. Issued Aug. 15, 1894, for 160.69 acres of land described above.

Contract No. 11,333.

Issued Feb. 6, 1894, to J. S. Robinson, for the west half of section 3, township 5 south, range 2 west, S. B. M., 319.37 acres. Agreed purchase price, $1,515.59. Purchase price paid, $303.12; interest paid, $254.64. Deed issued ————, to ————. Present owner of contract, J. S. Robinson. Patent No. 25. Issued Aug. 15, 1894, for 319.37 acres of land described above.

Contract No. 4,256.

Issued Feb. 2, 1885, to William J. McEwen, for all of section 7, township 5 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,920. Purchase price paid, $1,920; interest paid, $284.96. Deed issued May 1, 1888, to J. G. Miller. Present owner of contract, ———— ————. Patent No. 2. Issued April 4, 1879, for 640 acres of land described above.

Contract No. 3,571.

Issued May 17, 1884, to Robert W. Shaw, for the northeast quarter of the southwest quarter; the east half of

the northwest quarter and the northeast quarter of section 11, township 5 south, range 2 west, S. B. M., 280 acres. Agreed purchase price, $790. Purchase price paid, $790; interest paid, $137.40. Deed issued June 27, 1887, to George Hocknell. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 280 acres of land described above.

Contract No. 2,624.

Issued Dec. 15, 1882, to Robert W. Shaw, for the southeast quarter of the southwest quarter and the southeast quarter of section 11, township 5 south, range 2 west, S. B. M., 200 acres. Agreed purchase price, $1,060. Purchase price paid, $1,060; interest paid, $268.80. Deed issued June 27, 1887, to George Hocknell. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 200 acres of land described above.

Contract No. 5,886.

Issued Aug. 30, 1886, to Mary Jane Shaw, for the southwest quarter of the southwest quarter of section 11, township 5 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $——. Deed issued Sept. 29, 1886, to Mary Jane Shaw. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 4,770.

Issued Aug. 22, 1885, to S. Gregory Lines, for the northeast quarter of section 15, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Pur-

chase price paid, $400; interest paid, $117.60. Deed issued Dec. 4, 1890, to S. M. Goddard. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,723.

Issued June 19, 1884, to George Patterson, for the south half of the northwest quarter; the northeast quarter of the southwest quarter and the northwest quarter of the southeast quarter of section 15, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $490. Purchase price paid, $490; interest paid, $193.06. Deed issued July 8, 1891, to Thomas J. Steuart and G. M. Adam. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 6,031.

Issued Nov. 16, 1886, to M. L. Wicks, for the north half of the northwest quarter of section 15, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $44.80. Deed issued ————————, to ————————. Present owner of contract, C. N. Richards. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 5,947.

Issued Sept. 28, 1886, to B. H. Clark, for the east half of the southeast quarter of section 15, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $74.80. Deed issued June 6, 1893, to E. L. Mayberry and W. F.

Whittier. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,367.

Issued March 25, 1884, to George Patterson, for the northwest quarter of the southwest quarter and the southwest quarter of the southeast quarter of section 15, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $280. Purchase price paid, $280; interest paid, $78.55. Deed issued April 9, 1889, to Thomas J. Steuart and G. M. Adams. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,282.

Issued March 5, 1884, to Rachael Miller, for the south half of the southwest quarter of section 15, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $67.20. Deed issued March 14, 1889, to L. F. Davis, M. J. Clark and Daniel H. Miller. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,853.

Issued Sept. 23, 1885, to W. W. Guthridge, for the northeast quarter of section 17, township 5 south, range 2 west, S. B. M., 144.96 acres. Agreed purchase price, $362.40. Purchase price paid, $362.40; interest paid, $104.95. Deed issued Dec. 4, 1890, to Mrs. Emma N. Guthridge. Present

owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 144.96 acres of land described above.

Contract No. 6,033.

Issued Nov. 16, 1886, to M. L. Wicks, for the southwest quarter of section 17, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $320. Purchase price paid, $64; interest paid, $71.68. Deed issued ———— ————, to ————————. Present owner of contract, C. N. Richards. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 11,147.

Issued May 12, 1892, to C. A. Beardsley, for the southeast quarter of section 19, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $128; interest paid, $71.68. Deed issued ————————, to ————————. Present owner of contract, C. A. Beardsley. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,702.

Issued Feb. 24, 1891, to Peter Milliken, for the north half of section 19, township 5 south, range 2 west, S. B. M., 310.52 acres. Agreed purchase price, $776.30. Purchase price paid, $156.26; interest paid, $260.82. Deed issued ————————, to ————————. Present owner of contract, Peter Milliken. Patent No. 28. Issued Dec. 22, 1894, for 310.52 acres of land described above.

Contract No. 4,170.

Issued Jan. 2, 1884, to Lysander Utt, for the southwest quarter of section 19, township 5 south, range 2 west, S. B. M., 151.88 acres. Agreed purchase price, $759.40. Purchase price paid, $759.40; interest paid, $205.58. Deed issued Nov. 18, 1889, to P. S. Brinkerhoff. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 151.88 acres of land described above.

Contract No. 2,709.

Issued June 13, 1884, to Daniel Griswold, for the south half of the southeast quarter of section 21, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $33.23. Deed issued June 21, 1887, to Amy Winchester. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,588.

Issued May 21, 1884, to Alice F. Hobart, for the south half of the southwest quarter of section 21, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $1.72. Deed issued July 11, 1884, to Alice F. Hobart. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 6,032.

Issued Nov. 16, 1886, to M. L. Wicks, for the north half of the southwest quarter of section 21, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price,

$200. Purchase price paid, $40; interest paid, $44.80. Deed issued ————————, to ————————. Present owner of contract, C. N. Richards. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,440.

Issued March 14, 1885, to *Laura A. Ballard*, for the northeast quarter of section 23, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $110.50. Deed issued Feb. 25, 1890, to Laura A. Stowe Ballard. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,245.

Issued Jan. 31, 1885, to George B. Lyon, for the southwest quarter of the northwest quarter and the west half of the southwest quarter of section 23, township 5 south, range 2 west, S. B. M., 120 acres. Agreed purchase price, $380. Purchase price paid, $380; interest paid, $124.23. Deed issued Jan. 13, 1891, to S. T. McFadden. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 4,443.

Issued March 14, 1885, to Laura A. Ballard, for the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 23, township 5 south, range 2 west, S. B. M., 120 acres. Agreed purchase price, $300. Purchase price paid, $300; interest paid, $83. Deed issued Feb. 25, 1890, to Laura A. Stowe

Ballard. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 4,441.

Issued March 14, 1885, to Laura A. Ballard, for the east half of the southeast quarter of section 23, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $220. Purchase price paid, $220; interest paid, $60.80. Deed issued Feb. 25, 1890, to Laura A. Stowe Ballard. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,442.

Issued March 14, 1885, to Laura A. Ballard, for the northeast quarter of the southwest quarter of section 23, township 5 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $110. Purchase price paid, $110; interest paid, $30.40. Deed issued Feb. 25, 1890, to Laura A. Stowe Ballard. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 4,365.

Issued Feb. 19, 1885, to Alonzo M. Frink and Marcus L. Frink, for the west half of the southeast quarter and the southeast quarter of the southwest quarter of section 23, township 5 south, range 2 west, S. B. M., 120 acres. Agreed purchase price, $330. Purchase price paid, $330; interest paid, $27.71. Deed issued Oct. 7, 1886, to Alonzo M. Frink and Marcus L. Frink. Present owner of con-

tract, ————————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 3,690.

Issued June 9, 1884, to William Haslam, for the northeast quarter of section 25, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $268.80. Deed issued June 24, 1889, to D. Bridenstine. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 4,085.

Issued Nov. 3, 1884, to Miss N. I. McBride, for the west half of the northwest quarter of section 25, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $230. Purchase price paid, $230; interest paid, $64.40. Deed issued Oct. 23, 1889, to Elizabeth Haslam. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 3,733.

Issued June 24, 1884, to E. W. Durant, for the southeast quarter; the east half of the northwest quarter; the northeast quarter of the southwest quarter of section 25, township 5 south, range 2 west, S. B. M., 280 acres. Agreed purchase price, $1,280. Purchase price paid, $1,280; interest paid, $322.90. Deed issued April 4, 1889, to Blakeley Durant and E. W. Durant, Jr. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 280 acres of land described above.

Contract No. 3,895.

Issued Aug. 30, 1884, to William Haslam, for the northwest quarter of the southwest quarter and the south half of the southwest quarter of section 25, township 5 south, range 2 west, S. B. M., 120 acres. Agreed purchase price, $330. Purchase price paid, $330; interest paid, $89.15. Deed issued July 16, 1889, to William Haslam. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 120 acres of land described above.

Contract No. 2,486.

Issued Oct. 16, 1882, to Edgar A. Beardsley, for all of section 29, township 5 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $2,080. Purchase price paid, $2,080; interest paid, $582.40. Deed issued Nov. 3, 1887, to J. G. Miller. Present owner of contract, ———— ————. Patent No. 2. Issued April 4, 1879, for 640 acres of land described above.

Contract No. 4,257.

Issued Feb. 2, 1885, to William J. McEwen, for the northeast quarter of section 31, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $156.16. Deed issued Oct. 15, 1889, to William J. McEwen. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,823.

Issued July 23, 1884, to Edward McEwen, for the east half of the northwest quarter of section 31, township 5

south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $300. Purchase price paid, $300; interest paid, $84. Deed issued July 16, 1889, to Edward McEwen. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 4,434.

Issued March 11, 1885, to William J. McEwen, for the west half of the northwest quarter of section 31, township 5 south, range 2 west, S. B. M., 73.60 acres. Agreed purchase price, $184. Purchase price paid, $184; interest paid, $——. Deed issued March 12, 1885, to William J. McEwen. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 73.60 acres of land described above.

Contract No. 5,384.

Issued Feb. 27, 1886, to William J. McEwen, for the northeast quarter of the southwest quarter of section 31, township 5 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $40. Purchase price paid, $40; interest paid, $——. Deed issued April 18, 1892, to William J. McEwen. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 6,035.

Issued Nov. 16, 1886, to M. L. Wicks, for the west half of the southwest quarter of section 31, township 5 south, range 2 west, S. B. M., 80.24 acres. Agreed purchase price, $200.60. Purchase price paid, $200.60; interest paid, $91.86. Deed issued Feb. 6, 1895, to J. C. Willmon.

Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80.24 acres of land described above.

Contract No. 3,968.

Issued Oct. 2, 1884, to Peter Milliken, for the northeast quarter of section 33, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $193.80. Deed issued Feb. 28, 1889, to Peter Milliken. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,967.

Issued Oct. 2, 1884, to Frederick J. Castlehun, for the northwest quarter of section 33, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $97.05. Deed issued Dec. 22, 1886, to Frederick J. Castlehun. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 10,165.

Issued Sept. 10, 1889, to Philip A. Rice, for the southeast quarter of section 33, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $81.03. Deed issued April 2, 1895, to Peter Milliken. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,164.

Issued Sept. 10, 1889, to Philip A. Rice, for the southwest quarter of section 33, township 5 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $129.89. Deed issued April 11, 1895, to Philip A. Rice. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 3,887.

Issued Aug. 26, 1884, to A. F. Cornell, for the east half of the northeast quarter of section 35, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $11.20. Deed issued Sept. 2, 1885, to Clarence M. Mylrea. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,888.

Issued Aug. 26, 1884, to A. F. Cornell, for the west half of the northeast quarter of section 35, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $11.20. Deed issued Sept. 2, 1885, to Clarence M. Mylrea. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,889.

Issued Aug. 26, 1884, to A. F. Cornell, for the east half of the northwest quarter of section 35, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price,

$200. Purchase price paid, $200; interest paid, $11.20. Deed issued Sept. 2, 1885, to Clarence M. Mylrea, Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,890.

Issued Aug. 26, 1884, to A. F. Cornell, for the west half of the northwest quarter of section 35, township 5 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $11.20. Deed issued Sept. 2, 1885, to Clarence M. Mylrea, Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 10,349.

Issued June 23, 1890, to Martin Gahm, for the northeast quarter of section 1, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $113.90. Deed issued July 22, 1895, to Martin Gahm. Present owner of contract, ————————. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,249.

Issued March 13, 1890, to Albert L. Bogart, for the northwest quarter of section 1, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $156.80. Deed issued ————————, to ————————. Present owner of contract, Albert L. Bogart. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,196.

Issued Nov. 2, 1889, to E. Gunther, for the southeast quarter of section 1, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $96; interest paid, $188.16. Deed issued ————, to ————. Present owner of contract, E. Gunther. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,195.

Issued Oct. 28, 1889, to Horace F. Jewell, for the southwest quarter of section 1, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $96; interest paid, $161.28. Deed issued ————, to ————. Present owner of contract, W. I. Hollingsworth. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,128.

Issued July 22, 1889, to M. L. Mates, for the northeast quarter of section 3, township 5 south, range 3 west, S. B. M., 159.49 acres. Agreed purchase price, $2,551.84. Purchase price paid, $2,551.84; interest paid, $291.75. Deed issued ————, to ————. Present owner of contract, M. L. Mates and Frank M. Cappel. Patent No. 28. Issued Dec. 22, 1894, for 159.49 acres of land described above.

Contract No. 4,743.

Issued Aug. 7, 1885, to B. J. Inwall and Edw. F. Thayer, for the southeast quarter of section 3, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price,

$960. Purchase price paid, $360; interest paid, $579.60. Deed issued ————, to ————. Present owner of contract, Wm. Russell. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,676.

Issued June 18, 1895, to W. H. McCarty, for the west half of section 3, township 5 south, range 3 west, S. B. M., 318.49 acres. Agreed purchase price, $1,910.94. Purchase price paid, $1,910.94; interest paid, $1,093.88. Deed issued Sept. 16, 1895, to W. H. McCarty and Wm. Swan. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 318.49 acres of land described above.

Contract No. 4,717.

Issued July 22, 1885, to A. E. Preston, for the northeast quarter of section 5, township 5 south, range 3 west, S. B. M., 156.55 acres. Agreed purchase price, $626.20. Purchase price paid, $626.20; interest paid, $84.74. Deed issued ————, to ————. Present owner of contract, G. P. Thornburgh. Patent No. 28. Issued Dec. 22, 1894, for 156.55 acres of land described above.

Contract No. 4,429.

Issued March 9, 1885, to Wm. H. Stenger, for lot 1 of the northwest quarter of section 5, township 5 south, range 3 west, S. B. M., 80 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $47.03. Deed issued May 14, 1895, to Adolph Levy. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 80 acres of land described above.

Contract No. 4,431.

Issued March 9, 1885, to Andrew Gfroerer, for the north half of the northwest quarter of section 5, township 5 south, range 3 west, S. B. M., 75.65 acres. Agreed purchase price, $453.90. Purchase price paid, $453.90; interest paid, $———. Deed issued May 3, 1895, to Andrew Gfroerer. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 75.65 acres of land described above.

Contract No. 4,430.

Issued March 9, 1895, to Irene R. Favorite, for the southwest quarter of section 5, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $144.20. Deed issued May 3, 1895, to Irene R. Ehrmann. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,552.

Issued April 29, 1885, to Oscar J. Gates, for the southeast quarter of section 5, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $640; interest paid, $279.20. Deed issued April 2, 1895, to Oscar J. Gates and James B. Brown, Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,427.

Issued March 9, 1885, to Albert J. Mauermann, for all of section 7, township 5 south, range 3 west, S. B. M.,

628.65 acres. Agreed purchase price, $2,212. Purchase price paid, $2,212; interest paid, $758.32. Deed issued April 2, 1895, to Albert J. Mauermann. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 628.65 acres of land described above.

Contract No. 4,515.

Issued April 8, 1885, to Frederic C. Whiting, for the northeast quarter of section 9, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $448. Deed issued May 2, 1896, to Elisha H. Pierce. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,506.

Issued April 6, 1885, to Thomas McCullough, for the northwest quarter of section 9, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $220.54. Deed issued April 22, 1895, to Nathaniel McCullough. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,481.

Issued March 28, 1885, to Frederick C. Whiting, for the southeast quarter of section 9, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $5.54. Deed issued July 23, 1895, to L. A. Grant. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,480.

Issued March 28, 1885, to Frederic C. Whiting, for the southwest quarter of section 9, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $———. Deed issued July 23, 1895, to L. A. Grant. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,404.

Issued July 15, 1890, to Geo. B. Knight, for the northeast quarter of section 11, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $3,200. Purchase price paid, $640; interest paid, $358.40. Deed issued ————————, to ————————. Present owner of contract, Samuel A. Stewart. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,405.

Issued July 15, 1890, to Peter Suman, for the northeast quarter of the northwest quarter of section 11, township 5 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $224. Deed issued ————————, to ————————. Present owner of contract, Peter Suman. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above.

Contract No. 10,522.

Issued October 16, 1890, to C. H. Haver, for the northwest quarter of the northwest quarter of section 11, township 5 south, range 3 west, S. B. M., 40 acres. Agreed

purchase price, $800. Purchase price paid, $160; interest paid, $179.20. Deed issued ————, to ————. Present owner of contract, C. H. Haver. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above.

Contract No. 10,504.

Issued Oct. 3, 1890, to C. H. Scott, for the southeast quarter of section 11, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $408.32. Deed issued April 2, 1895, to Mrs. Ella E. Stewart. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,584.

Issued May 6, 1885, to Jno. M. Griffin, for the southwest quarter of section 11, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $304.52; interest paid, $405.36. Deed issued ————, to ————. Present owner of contract, Eliza Griffin, widow. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,689.

Issued Jan. 29, 1891, to S. A. Stewart, for the northwest quarter of section 13, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $797.61. Deed issued ————, to ————. Present owner of contract, Corliss Stewart. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,690.

Issued Jan. 29, 1891, to S. A. Stewart, for the southwest quarter of section 13, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $3,200. Purchase price paid, $1,518.77; interest paid, $817.53. Deed issued ————, to ————. Present owner of contract, Fred L. Stewart. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,586.

Issued May 6, 1885, to John N. Griffin, for the northeast quarter of section 15, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $403; interest paid, $615.60. Deed issued ————, to ————. Present owner of contract, Eliza Griffin. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,585.

Issued May 6, 1885, to John N. Griffin, for the northwest quarter of section 15, township 5 south, range 3 west, S. B. M. 160 acres. Agreed purchase price, $960. Purchase price paid, $403; interest paid, $615.60. Deed issued ————, to ————. Present owner of contract, Eliza Griffin. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,703.

Issued July 13, 1885, to James F. Jones, for the south half of section 15, township 5 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,920.00. Pur-

chase price paid, $384.00; interest paid, $322.56. Deed issued ————, to ————. Present owner of contract, James F. Jones. Patent No. 28. Issued Dec. 22, 1894, for 320 acres of land described above.

Contract No. 4,293.

Issued Feb. 5, 1885, to Luigi Dama, for the northeast quarter of section 17, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $210.19. Deed issued April 22, 1895, to Edward E. Perley. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,294.

Issued Feb. 5, 1885, to Luigi Dama, for the northwest quarter of section 17, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640.00 Purchase price paid, $640.00; interest paid, $168.05. Deed issued April 22, 1895, to Edward E. Perley. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,295.

Issued Feb. 5, 1885, to Luigi Dama, for the southeast quarter of section 17, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $560.00. Purchase price paid, $560.00; interest paid, $147.13. Deed issued April 22, 1895, to Edward E. Perley. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,296.

Issued Feb. 5, 1885, to Luigi Dama, for the southwest quarter of section 17, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $105.22. Deed issued April 22, 1895, to Edward E. Perley. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 5,574.

Issued May 8, 1886, to John W. Reese, for all of section 19, township 5 south, range 3 west, S. B. M., 628.31 acres. Agreed purchase price, $600.00. Purchase price paid, $120.00; interest paid, $100.80. Deed issued ————, to ————. Present owner of contract, John W. Reese. Patent No. 28. Issued Dec. 22, 1894, for 314.28 acres of land described above.

Contract No. 4,686.

Issued June 24, 1885, to I. C. Whiting, for the northeast quarter of section 21, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $960.00; interest paid, $168.00. Deed issued July 23, 1895, to L. A. Grant. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,561.

Issued April 30, 1885, to Neil McLean, for the northwest quarter of section 21, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960.00.

Purchase price paid, $960.00; interest paid, $28.36. Deed issued July 23, 1895, to L. A. Grant. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,704.

Issued July 13, 1885, to James F. Jones, for the south half of section 21, township 5 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,920.00. Purchase price paid, $1,920.00; interest paid, $633.20. Deed issued Feb. 6, 1895, to Wm. R. Sargeant. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 320 acres of land described above.

Contract No. 4,773.

Issued Aug. 22, 1885, to S. Gregory Lines, for the northeast quarter of section 23, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $480.00; interest paid, $129.90. Deed issued ————————, to ————————. Present owner of contract, Wm. H. Fessenden. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,896.

Issued Oct. 17, 1885, to S. Gregory Lines, for the northwest quarter of section 23, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $224.00. Deed issued Oct. 22, 1895, to Jonathan Curtis. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,804.

Issued Sept. 1, 1885, to S. Gregory Lines, for the southeast quarter of section 23, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $134.40. Deed issued ————, to ————. Present owner of contract, James D. Byrnes. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 6,154.

Issued Dec. 18, 1886, to J. W. Reese, for the southwest quarter of section 23, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $160.00. Purchase price paid, $160.00; interest paid, $77.12. Deed issued Nov. 11, 1895, to John W. Reese. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,201.

Issued Nov. 8, 1889, to D. W. Donnelly, for the northeast quarter of the northeast quarter of section 25, township 5 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $520.00. Purchase price paid, $104.00; interest paid, $29.12. Deed issued ———— to ————. Present owner of contract, D. W. Donnelly. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above.

Contract No. 10,202.

Issued Nov. 8, 1889, to D. W. Donnelly, for the northwest quarter of the northeast quarter of section 25, township 5 south, range 3 west, S. B. M., 40 acres. Agreed

purchase price, $520.00. Purchase price paid, $104.00; interest paid, $29.12. Deed issued ———— to ———— ————. Present owner of contract, W. D. Donnelly. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above.

Contract No. 10,203.

Issued Nov. 8, 1889, to D. W. Donnelly, for the southeast quarter of the northeast quarter of section 25, township 5 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $520.00. Purchase price paid, $104.00; interest paid, $29.12. Deed issued ———— to ———— ————. Present owner of contract, D. W. Donnelly. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above.

Contract No. 10,204.

Issued Nov. 8, 1889, to D. W. Donnelly, for the southwest quarter of the northeast quarter of section 25, township 5 south, range 3 west, S. B. M., 40 acres. Agreed purchase price, $520.00. Purchase price paid, $104.00; interest paid, $29.12. Deed issued ———— to ———— ————. Present owner of contract, D. W. Donnelly. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above.

Contract No. 4,989.

Issued Nov. 23, 1885, to J. Theo. F. Hunter, for the northwest quarter of section 25, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960.00. Purchase price paid, $960.00; interest paid, $248.01. Deed issued May 14, 1895, to Hattie Tillinghast.

Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,433.

Issued Mar. 11, 1885, to Wm. J. McEwen, for the southeast quarter of section 25, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $————. Deed issued April 2, 1895, to Wm. J. McEwen. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,793.

Issued Aug. 29, 1885, to W. H. Pennycook, for the southwest quarter of section 25, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640.00. Purchase price paid, $640.00; interest paid, $107.52. Deed issued May 14, 1895, to Hattie Tillinghast, Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,889.

Issued Oct. 14, 1885, to B. J. Inwall, for the northeast quarter of section 27, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $320.00. Purchase price paid, $97.05; interest paid, $196.15. Deed issued ———————— to ————————. Present owner of contract, A. L. Creider. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,822.

Issued Sept. 11, 1885, to Wm. MacCann, for the southeast quarter of section 27, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $80.00. Purchase price paid, $16.00; interest paid, $4.48. Deed issued ———— to ————. Present owner of contract, Wm. MacCann. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,716.

Issued July 21, 1885, to B. J. Inwall, for the northwest quarter of section 27, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $560.00. Purchase price paid, $560.00; interest paid, $334.76. Deed issued May 8, 1896, to A. L. Creider. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 4,817.

Issued Sept. 8, 1885, to E. B. Burr, for the southwest quarter of section 27, township 5 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $320.00. Purchase price paid, $320.00; interest paid, $34.21. Deed issued Apr. 22, 1895, to Edward E. Perley. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 160.00 acres of land described above.

Contract No. 4,776.

Issued Aug. 25, 1885, to Wm. Newport, for the north half of section 29, township 5 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $760.00. Purchase

price paid, $760.00; interest paid, $329.05. Deed issued May 2, 1896, to Emogene Reynolds. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 320 acres of land described above.

Contract No. 4,508.

Issued April 6, 1885, to Thomas McCullough and Wm. N. Harvey, for the south half of section 29, township 5 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,000.00. Purchase price paid, $1,000.00; interest paid, $536.56. Deed issued May 2, 1896, to Wm. N. Harvey. Present owner of contract, ————————. Patent No. 28. Issued Dec. 22, 1894, for 320 acres of land described above.

Contract No. 4,768.

Issued Aug. 20, 1885, to Wm. Newport, for all of section 31, all of section 33 and all of section 35, township 5 south, range 3 west, S. B. M., 1,907.58 acres. Agreed purchase price, $3,507.58. Purchase price paid, $3,507.58; interest paid, $1,371.16. Deed issued Aug. 16, 1892, to Wm. Newport. Present owner of contract, ————————. Patent No. 20. Issued Feb. 13, 1892, for 1,160 acres of land described above; also patent No. 21. Issued Feb. 13, 1892, for 627.58 acres of land described above; also patent No. 24. Issued Nov. 5, 1892, for 120 acres of land described above; also patent No. 28. Issued Dec. 22, 1894, for 120 acres of land described above.

Contract No. 5,547.

Issued Apr. 22, 1886, to Albert Mauermann, for all of section 1, township 5 south, range 4 west, S. B. M., 637.44

acres. Agreed purchase price, $796.80. Purchase price paid, $796.80; interest paid, $223.10. Deed issued Apr. 2, 1895, to Albert J. Mauermann. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 637.44 acres of land described above.

Contract No. 4,671.

Issued June 15, 1885, to Peter A. Welch, for the north half of section 3, township 5 south, range 4 west, S. B. M., 334.56 acres. Agreed purchase price, $920.04. Purchase price paid, $920.04; interest paid, $———. Deed issued Mar. 22, 1895, to C. B. Hewitt, W. A. Bingham and Jno. H. Lee. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 334.56 acres of land described above.

Contract No. 4,614.

Issued May 15, 1885, to Juan Abila, for the south half of section 3, township 5 south, range 4 west, S. B. M., 320 acres. Agreed purchase price, $880.00. Purchase price paid, $880.00; interest paid, $49.28. Deed issued Mar. 22, 1895, to C. B. Hewitt, W. A. Bingham and Jno. H. Lee. Present owner of contract, ————. Patent No. 28. Issued Dec. 22, 1894, for 320 acres of land described above.

Contract No. 6,688.

Issued April 7, 1887, to H. C. Steele, for all of section 5, township 5 south, range 4 west, S. B. M., 673.84 acres. Agreed purchase price, $673.84. Purchase price paid, $673.84; interest paid, $141.27. Deed issued Apr. 11, 1895, to H. C. Steele, for the east half. Present owner of con-

tract, H. C. Steele, for the west half. Patent No. 28. Issued Dec. 22, 1894, for 335.84 acres of land described above.

Contract No. 5,778.

Issued July 23, 1886, to Elisha H. Pierce, for all of section 11, township 5 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $268.80. Deed issued ——— to ———. Present owner of contract, Elisha H. Pierce. Patent No. 28. Issued Dec. 22, 1894, for 640 acres of land described above.

Contract No. 10,018.

Issued Jan. 25, 1889, to D. M. Fraser, for the northwest quarter of the northeast quarter of section 15, township 5 south, range 4 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $100.00; interest paid, $———. Deed issued ——————— to ——— ———. Present owner of contract, R. C. Mills, Sr., and R. C. Mills, Jr. Patent No. ———. Issued ———————, for ——— acres of land described above.

Contract No. 10,058.

Issued Apr. 6, 1889, to R. M. Mooer, for the east half of the northeast quarter; southwest quarter of the northeast quarter; northwest quarter and south half of section 15, township 5 south, range 4 west, S. B. M., 600 acres. Agreed purchase price, $1,500.00. Purchase price paid, $1,500.00; interest paid, $———. Deed issued ——————— to ———————. Present owner of contract, John M. S. Egan. Patent No. 28. Issued Dec. 22, 1894, for 520 acres of land described above.

Contract No. 6,180.

Issued Dec. 29, 1886, to Peter Wall and Abram Painter, for all of section 19, township 5 south, range 4 west, S. B. M., 706.24 acres. Agreed purchase price, $1,235.92. Purchase price paid, $247.18; interest paid, $207.63. Deed issued ———— to ————. Present owner of contract, F. H. Heald. Patent No. 30. Issued Jan. 20, 1896, for 706.24 acres of land described above.

Contract No. 6,494.

Issued Mar. 14, 1887, to Wm. H. Carlson and H. A. Nelson, for all of sections 21 and 33, township 5 south, range 4 west, S. B. M., 1,280 acres. Agreed purchase price, $1,440.00. Purchase price paid, $288.00; interest paid, $161.28. Deed issued ———— to ————. Present owner of contract, Wm. H. Carlson and H. A. Nelson. Patent No. 32. Issued May 7, 1896, for 830 acres of land described above.

Contract No. 11,025.

Issued Feb. 8, 1892, to J. W. Waters, for the southeast quarter of section 25, township 5 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $44.80. Deed issued ———— to ————. Present owner of contract, J. T. Thornton. Patent No. 28. Issued Dec. 22, 1894, for 40 acres of land described above. Patent No. 32. Issued May 7, 1896, for 120 acres of land described above.

Contract No. 11,083.

Issued Feb. 11, 1892, to C. C. Holland, for the southwest quarter of section 25, township 5 south, range 4 west, S.

B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ———— to ————. Present owner of contract, C. C. Holland. Patent No. 32. Issued May 7, 1896, for 160 acres of land described above.

Contract No. 4,623.

Issued May 19, 1885, to Peter Wall, for all of section 29, township 5 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $640.00. Purchase price paid, $128.00; interest paid, $358.40. Deed issued ———— to ————. Present owner of contract, Sidney H. Johnson. Patent No. 30. Issued Jan. 20, 1896, for 480 acres of land described above.

Contract No. 3,369.

Issued Mar 26, 1884, to Peter Wall, for the west half of the northeast quarter; northwest quarter of the southeast quarter and lots one, two, three, four, five, and six of section 31, township 5 south, range 4 west, and lots one two, and three of section 21, township 6 south, range 4 west, S. B. M., 367.55 acres. Agreed purchase price, $3,675.50. Purchase price paid, $3,675.50; interest paid, $1,031.35. Deed issued April 4, 1889, to Peter Wall. Present owner of contract, ————. Patent No. 10. Issued Jan. 9, 1885, for 367.55 acres of land described above.

Contract No. 3,684½.

Issued June 6, 1884, to Bernard J. Lee, for the southwest quarter of the northeast quarter; north half of the southeast quarter and the southeast quarter of the south-

east quarter of section 7, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $44.80. Deed issued June 8, 1886, to Bernard J. Lee. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,855.

Issued Aug. 6, 1884, to C. J. Compton, for the north half of the northwest quarter of section 7, township 5 south, range 5 west, S. B. M., 81.05 acres. Agreed purchase price, $151.97. Purchase price paid, $151.97; interest paid, $17.02. Deed issued Aug. 30, 1893, to South Riverside Land & Water Co. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 81.05 acres of land described above.

Contract No. 3,854.

Issued Aug. 6, 1884, to C. J. Compton, for the south half of the northwest quarter of section 7, township 5 south, range 5 west, S. B. M., 81.02 acres. Agreed purchase price, $151.90. Purchase price paid, $151.90; interest paid, $17.00. Deed issued Sept. 29, 1886, to Riverside Land & Water Co. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 81.02 acres of land described above.

Contract No. 3,862.

Issued Aug. 11, 1884, to Patrick Gallagher, for the northeast quarter of the southwest quarter of section 7, township 5 south, range 5 west, S. B. M., 40 acres. Agreed

purchase price, $75.00. Purchase price paid, $75.00; interest paid, $———. Deed issued Aug. 12, 1884, to Patrick Gallagher. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 5,626.

Issued June 2, 1886, to C. O. Perrine, for the southwest quarter of the southeast quarter and the south half of the southwest quarter of section 7, township 5 south, range 5 west, S. B. M., 120.97 acres. Agreed purchase price, $302.42. Purchase price paid, $302.42; interest paid, $68.19. Deed issued Aug. 30, 1893, to South Riverside Land & Water Co. Present owner of contract, ——————. Patent No. 23. Issued Nov. 5, 1892, for 120.97 acres of land described above.

Contract No. 5,662.

Issued June 7, 1886, to C. O. Perrine, for the northwest quarter of the southwest quarter of section 7, township 5 south, range 5 west, S. B. M., 41 acres. Agreed purchase price, $102.50. Purchase price paid, $102.50; interest paid, $23.12. Deed issued June 11, 1890, to South Riverside Land & Water Co. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 41 acres of land described above.

Contract No. 5,087.

Issued Dec. 24, 1885, to R. M. Mooer, for all of sections 15 and 23 and the fractional north half of section 25, township 5 south, range 5 west, S. B. M., 1,588.58 acres. Agreed purchase price, $2,611.45; purchase price paid,

$2,611.45; interest paid, $1,348.91. Deed issued May 27, 1895, to Margaret C. Graham. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 1,588.58 acres of land described above.

Contract No. 4,654.

Issued June 8, 1885, to Patrick Gallagher, for the northeast quarter of section 17, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $25.90. Deed issued May 6, 1896, to P. J. Stockman and Bridget Gallagher, executors. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 1,588.58 acres of land described above.

Contract No. 4,615.

Issued May 15, 1885, to Peter Wall, for the southwest quarter of section 17, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $174.85. Deed issued Mar. 16, 1893, to H. K. W. Bent. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 11,349.

Issued Aug. 21, 1894, to H. K. W. Bent, for the southeast quarter of section 19, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $480.00. Purchase price paid, $96.00; interest paid, $26.88. Deed issued ———————— to ————————. Present owner of contract, H. K. W. Bent. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 4,656.

Issued June 8, 1885, to Chas. S. Davis, for the northeast quarter of section 21, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $300.00; interest paid, $225.40. Deed issued ———— to ————. Present owner of contract, Wm. E. Sloan. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 4,655.

Issued June 8, 1885, to W. G. McVicar and Joseph Rose, for the northwest quarter and the south half of section 21, township 5 south, range 5 west, S. B. M., 480 acres. Agreed purchase price, $1,200.00. Purchase price paid, $1,200.00; interest paid, $196.60. Deed issued July 12, 1893, to W. G. McVicar, the undivided ¾ and Joseph Rose the undivided ¼. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 480 acres of land described above.

Contract No. 6,596.

Issued Mar. 26, 1887, to John Dolbeer, for the northeast quarter of section 27, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $537.60. Deed issued Mar. 29, 1893, to John Dolbeer. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,594.

Issued Mar. 26, 1887, to John Dolbeer, for the northwest quarter of section 27, township 5 south, range 5

west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $537.60. Deed issued Mar. 29, 1893, to John Dolbeer. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,598.

Issued Mar. 26, 1887, to John Dolbeer, for the southeast quarter of section 27, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $537.60. Deed issued Mar. 29, 1893, to John Dolbeer. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,599.

Issued Mar. 26, 1887, to John Dolbeer, for the southwest quarter of section 27, township 5 south, range 5 west, S. B. M., 160 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $896.00. Deed issued ———————— to ————————. Present owner of contract, John Dolbeer. Patent No. ———. Issued ———————, for ——— acres of land described above.

Contract No. 4,437.

Issued Mar. 13, 1885, to Wm. M. Painter and Abram Painter, for the northwest quarter of the northwest quarter and lots one, two, and three of section 35, township 5 south, range 5 west, S. B. M., 101.32 acres. Agreed purchase price, $709.24. Purchase price paid, $709.24; interest paid, $138.68. Deed issued Mar. 29, 1893, to Abram

Painter. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 101.32 acres of land described above.

Contract No. 10,707.

Issued Mar. 10, 1891, to Thomas E. Park, for the northeast quarter of section 1, township 5 south, range 6 west, S. B. M., 160.76 acres. Agreed purchase price, $401.90. Purchase price paid, $80.50; interest paid, $135.00. Deed issued ———— to ————. Present owner of contract, Thomas E. Park. Patent No. 3. Issued Dec. 2, 1880, for 160.76 acres of land described above.

Contract No. 1,120.

Issued Aug. 1, 1881, to John Gregory, for the south half of the southeast quarter of section 1, township 5 south, range 6 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $7.00. Deed issued July 12, 1882, to John Gregory. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 80 acres of land described above.

Contract No. 5,995.

Issued Oct. 26, 1886, to South Riverside Land & Water Co., for the north half of the southeast quarter and northwest quarter of section 1, township 5 south, range 6 west, S. B. M., 240.27 acres. Agreed purchase price, $600.67. Purchase price paid, $600.67; interest paid, $———. Deed issued Nov. 24, 1886, to South Riverside Land & Water Co. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 240.27 acres of land described above.

Contract No. 5,614.

Issued June 2, 1886, to C. O. Perrine, for the southwest quarter of section 1, township 5 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $90.22. Deed issued June 11, 1890, to South Riverside Land & Water Co. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 160 acres of land described above.

Contract No. 1,108.

Issued July 13, 1881, to Wm. S. Lewis, for the southeast quarter of the northwest quarter and lot 3 of section 3, township 5 south, range 6 west, S. B. M., 79.29 acres. Agreed purchase price, $296.45. Purchase price paid, $296.45; interest paid, $63.96. Deed issued June 30, 1885, to John E. Cutter. Present owner of contract, ———— ————. Patent No. 3. Issued Dec. 2, 1880, for 79.29 acres of land described above.

Contract No. 2,531.

Issued Oct. 25, 1882, to Edwin R. Pierce, for the west half of the northwest quarter and the south half of the southeast quarter of section 3, township 5 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $475.00. Purchase price paid, $475.00; interest paid, $125.70. Deed issued July 26, 1887, to Edwin R. Pierce. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 160 acres of land described above.

Contract No. 1,102.

Issued July 5, 1881, to Chas. H. Morse, for the northeast quarter of the southeast quarter of section 3, town-

ship 5 south, range 6 west, S. B. M., 40 acres. Agreed purchase price, $500.00. Purchase price paid, $500.00; interest paid, $28.00. Deed issued July 26, 1882, to Miss Lizzie Sayward. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 40 acres of land described above.

Contract No. 2,623.

Issued Dec. 13, 1882, to Abzina A. Pierce, for the northwest quarter of section 11, township 5 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $420.00. Purchase price paid, $420.00; interest paid, $108.20. Deed issued July 26, 1887, to Abzina A. Pierce. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 160 acres of land described above.

Contract No. 3,979.

Issued Oct. 7, 1884, to James T. Mayhew, for the north half of the southeast quarter of section 11, township 5 south, range 6 west, S. B. M., 80 acres. Agreed purchase price, $240.00. Purchase price paid, $240.00; interest paid, $22.38. Deed issued June 16, 1886, to South Riverside Land & Water Co. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 80 acres of land described above.

Contract No. 3,732.

Issued June 23, 1884, to James T. Mayhew, for the south half of the southeast quarter of section 11, township 5 south, range 6 west, S. B. M., 80 acres. Agreed purchase price, $240.00. Purchase price paid, $240.00; interest paid, $26.33. Deed issued June 16, 1886, to South River-

side Land & Water Co. Present owner of contract, ——————. Patent No. 3. Issued Dec. 2, 1880, for 80 acres of land described above.

Contract No. 4,196.

Issued Jan. 16, 1885, to Reason R. Wright, O. F. Wright and J. C. Wright, for the southwest quarter of section 11, township 5 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $———. Deed issued Jan. 22, 1885, to Reason R. Wright, O. F. Wright and J. C. Wright. Present owner of contract, ——————. Patent No. 3. Issued Dec. 2, 1880, for 160 acres of land described above.

Contract No. 6,505.

Issued Mar. 18, 1887, to E. E. Hewitt, for the east half of section 7, township 5 south, range 7 west, S. B. M., 320 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $7.87. Deed issued May 23, 1887, to E. E. Hewitt. Present owner of contract, ——————. Patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 11,407.

Issued Nov. 20, 1895, to T. B. Julian, for the southeast quarter of the southwest quarter and lot 4 of section 7, township 5 south, range 7 west, S. B. M., 49.14 acres. Agreed purchase price, $122.85. Purchase price paid, $24.57; interest paid, $6.88. Deed issued —————— to ——————. Present owner of contract, T. B. Julian.

Patent No. 7. Issued Dec. 27, 1883, for 49.14 acres of land described above.

Contract No. 10,891.

Issued Oct. 21, 1891, to Mrs. A. E. Pleasants, for all of fractional section 19, township 5 south, range 7 west, S. B. M., 156.84 acres. Agreed purchase price, $392.10. Purchase price paid, $78.42; interest paid, $65.88. Deed issued ———— to ————. Present owner of contracts, Mrs. A. E. Pleasants. Patent No. 23. Issued Nov. 5, 1892, for 156.84 acres of land described above.

Contract No. 9,936.

Issued Oct. 11, 1888, to Isaac Harding, for the southwest quarter of section 21, township 5 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $560.00. Purchase price paid, $112.00; interest paid, $250.58. Deed issued ———— to ————. Present owner of contract, Isaac Harding. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 8,376.

Issued Sept. 19, 1887, to J. E. Pleasants, for the north half of northeast quarter; northeast quarter of the northwest quarter and lot 1 of section 29, township 5 south, range 7 west, S. B. M., 155.46 acres. Agreed purchase price, $588.65. Purchase price paid, $388.65; interest paid, $96.72. Deed issued Mar. 10, 1892, to Charles Bozento Chlapowski. Present owner of contract, ———— ————. Patent No. 3. Issued Dec. 2, 1880, for 156.46 acres of land described above.

Contract No. 8,377.

Issued Sept. 19, 1887, to J. E. Pleasants, for the north half of the southeast quarter; southeast quarter of the southeast quarter and lots 3 and 4 of section 29, township 5 south, range 7 west, S. B. M., 200.57 acres. Agreed purchase price, $501.42. Purchase price paid, $501.42; interest paid, $124.80. Deed issued Mar. 10, 1892, to Charles Bozento Chlapowski. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 200.57 acres of land described above.

Contract No. 9,922.

Issued Sept. 27, 1888, to Joaquin Serrano, for the northwest quarter of section 33, township 5 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $240.00. Purchase price paid, $61.80; interest paid, $105.22. Deed issued ———— to ————. Present owner of contract, Joaquin Serrano. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,426.

Issued Mar. 7, 1887, to Albert Staples, for the south half of the southeast quarter of section 33, township 5 south, range 7 west, S. B. M., 80 acres. Agreed purchase price, $200.00. Purchase price paid, $200.00; interest paid, $56.00. Deed issued Mar. 17, 1892, to Ella R. Staples. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 80 acres of land described above.

Contract No. 6,570.

Issued Mar. 23, 1887, to Joaquin Serrano, for the southwest quarter of section 33, township 5 south, range 7 west, S. B. M., 156.26 acres. Agreed purchase price, $390.65. Purchase price paid, $390.65; interest paid, $109.35. Deed issued Mar. 28, 1892, to Joaquin Serrano. Present owner of contract, ————. Patent No. 3. Issued Dec. 2, 1880, for 156.26 acres of land described above.

Contract No. 6,157.

Issued Dec. 20, 1886, to W. H. Carlson, for all fractional section 1, township 6 south, range 1 west, S. B. M., 636.67 acres. Agreed purchase price, $795.84. Purchase price paid, $159.16; interest paid, $98.14. Deed issued ———— to ————. Present owner of contract, W. H. Carlson. Patent No. 18. Issued Oct. 7, 1891, for 636.67 acres of land described above.

Contract No. 4,439.

Issued Mar. 14, 1885, to B. Bradley, for the south half of the northeast quarter and lots one and two of section 3, township 6 south, range 1 west, S. B. M., 128.64 acres. Agreed purchase price, $385.92. Purchase price paid, $385.92; interest paid, $75.64. Deed issued Sept. 17, 1888, to Edgar Vertrees and Montgomery A. Walker. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 128.64 acres of land described above.

Contract No. 4,246.

Issued Jan. 31, 1885, to Geo. B. Lyon, for the north half of the southwest quarter and lots three, four, and

five of section 3, and the fractional northeast quarter of section 5, township 6 south, range 1 west, S. B. M., 396.76 acres. Agreed purchase price, $1,240.17. Purchase price paid, $1,240.17; interest paid, $139.65. Deed issued Feb. 24, 1887, to J. W. Clark. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 396.76 acres of land described above.

Contract No. 4,205.

Issued Jan. 19, 1885, to Nicholas Nigh, for the east half of the southeast quarter of section 3, township 6 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $376.00. Purchase price paid, $376.00; interest paid, $——. Deed issued Jan. 22, 1885, to Nicholas Nigh. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 4,438.

Issued Mar. 14, 1885, to Edgar Vertrees, for the west half of the southeast quarter of section 3, township 6 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $48.91. Deed issued June 20, 1887, to Edgar Vertrees. Present owner of contract, ——————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,910.

Issued Sept. 14, 1886, to J. W. Clark, for the south half of the southwest quarter of section 3, township 6 south, range 1 west, S. B. M., 80 acres. Agreed purchase price, $220.00. Purchase price paid, $220.00; interest paid,

$6.57. Deed issued Apr. 5, 1887, to J. W. Clark. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 5,579.

Issued May 1, 1886, to H. R. Stevens and E. L. Stern, for the northwest quarter; west half of the southwest quarter; northeast quarter of the southwest quarter and lot seven of section 5, township 6 south, range 1 west, S. B. M., 312.48 acres. Agreed purchase price, $1,965.82. Purchase price paid, $1,965.82; interest paid, $745.74. Deed issued May 18, 1893, to B. Sheideman. Present owner of contract, ————————. Patent No. 9. Issued Jan. 9, 1885, for 281.37 acres of land described above; also patent No. 6. Issued Dec. 27, 1883, for 31.11 acres of land described above.

Contract No. 5,580.

Issued May 10, 1886, to H. R. Stevens and E. L. Stern, for the west half of the southeast quarter; southeast quarter of the southwest quarter and lot six of section 5, township 6 south, range 1 west, S. B. M., 132.34 acres. Agreed purchase price, $181.70. Purchase price paid, $181.70; interest paid, $61.08. Deed issued May 16, 1892, to E. L. Stern. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 132.34 acres of land described above.

Contract No. 8,773.

Issued Nov. 14, 1887, to Richard Melrose, for all of section 7, township 6 south, range 1 west, S. B. M., 639.04 acres. Agreed purchase price, $319.52. Purchase price

paid, $63.90; interest paid, $35.78. Deed issued ——— ——— to ———. Present owner of contract, J. C. Willman. Patent No. 18. Issued Oct. 7, 1891, for 639.04 acres of land described above.

Contract No. 4,937.

Issued Nov. 2, 1885, to P. A. Clark, for all of section 9, township 6 south, range 1 west, S. B. M., 640 acres. Agreed purchase price, $580.00. Purchase price paid, $580.00; interest paid, $276.32. Deed issued Apr. 24, 1894, to State Bank of San Jacinto. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 6,004.

Issued Oct. 26, 1886, to Michel Gaizard, for all of section 11, township 6 south, range 1 west, S. B. M., 642.96 acres. Agreed purchase price, $1,607.40. Purchase price paid, $1,607.40; interest paid, $502.56. Deed issued June 1, 1892, to J. B. Alvord. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 642.96 acres of land described above.

Contract No. 4,255.

Issued Feb. 2, 1885, to M. M. Onstott, for the southwest quarter of the northwest quarter; north half of the southwest quarter and southwest quarter of the southwest quarter of section 13, township 6 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $111.50. Deed issued Jan. 28, 1890, to M. M. Onstott. Present owner of

contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 8,778.

Issued Nov. 14, 1887, to Richard Melrose, for the north half of the northwest quarter; southeast quarter of the northwest quarter and east half of section 13, township 6 south, range 1 west, S. B. M., 421 acres. Agreed purchase price, $421.00. Purchase price paid, $421.00; interest paid, $125.76. Deed issued Mar. 21, 1893, to E. Jose. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 421 acres of land described above.

Contract No. 11,313.

Issued Oct. 16, 1893, to Mrs. I. M. Araiza, for the southeast quarter of the southwest quarter of section 13, township 6 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $20.00; interest paid, $16.80. Deed issued ———————— to ———— ————. Present owner of contract, L. T. Harper. Patent No. 19. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 3,925.

Issued Sept. 19, 1884, to James Rawson, for the north half of the northwest quarter; east half of the southwest quarter and east half of section 17; southwest quarter of southeast quarter and west half of section 21, township 6 south, range 1 west, S. B. M., 840 acres. Agreed purchase price, $630.00. Purchase price paid, $630.00; interest paid, $177.66. Deed issued ———————— to ———— ————. Present owner of contract, James Rawson.

Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above; also patent No. 23. Issued Nov. 5, 1892, for 200 acres of land described above.

Contract No. 3,791.

Issued July 7, 1884, to James Rawson, for the south half of the northwest quarter of section 17, and the southeast quarter of section 19, township 6 south, range 1 west, S. B. M., 240 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $168.00. Deed issued ———— to ————. Present owner of contract, James Rawson. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above; also patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 3,570.

Issued May 17, 1884, to James Rawson, for the west half of the southwest quarter of section 17, and the east half of the northeast quarter of section 19, township 6 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $113.87. Deed issued June 20, 1889, to James Rawson. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 8,777.

Issued Nov. 14, 1887, to Richard Melrose, for the west half and west half of the northeast quarter of section 19, township 6 south, range 1 west, S. B. M., 391.68 acres. Agreed purchase price, $783.36. Purchase price paid, $783.36; interest paid, $336.94. Deed issued May 2, 1896,

to Enos Easton and James H. Funk. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 236.16 acres of land described above; also patent No. 23. Issued Nov. 5, 1892, for 155.52 acres of land described above.

Contract No. 3,724.

Issued June 19, 1884, to Ignacio Araiza, for the east half of the northeast quarter and northwest quarter of the northeast quarter of section 21, township 6 south, range 1 west, S. B. M., 120 acres. Agreed purchase price, $300.00. Purchase price paid, $300.00; interest paid, $135.94. Deed issued June 20, 1893, to Juana C. Araiza. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 120 acres of land described above.

Contract No. 3,569.

Issued May 17, 1884, to Ignacio Araiza, for the southwest quarter of the northeast quarter; northwest quarter of the southeast quarter and the east half of the southeast quarter of section 21, township 6 south, range 1 west, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $158.15. Deed issued Oct. 19, 1891, to Juana C. Araiza. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 40 acres of land described above; also patent No. 7. Issued Dec. 27, 1883, for 120 acres of land described above.

Contract No. 8,774.

Issued Nov. 14, 1887, to Richard Melrose, for all of section 23, township 6 south, range 1 west, S. B. M., 649.12

acres. Agreed purchase price, $324.56. Purchase price paid, $324.56; interest paid, $97.77. Deed issued Apr. 6, 1893, to E. Jose. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 326.84 acres of land described above; also patent No. 23. Issued Nov. 5, 1892, for 322.28 acres of land described above.

Contract No. 8,775.

Issued Nov. 14, 1887, to Richard Melrose, for all of section 25, township 6 south, range 1 west, S. B. M., 640 acres. Agreed purchase price, $320.00. Purchase price paid, $320.00; interest paid, $103.28. Deed issued Sept. 28, 1893, to Joseph Hyans. Present owner of contract, ———— ————. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 4,933.

Issued Nov. 2, 1885, to Juana C. Araiza, for all of section 27, and northwest quarter; northwest quarter of the northeast quarter; east half of the northeast quarter; east half of the southeast quarter and west half of the southwest quarter of section 33, township 6 south, range 1 west, S. B. M., 1,080 acres. Agreed purchase price, $540.00. Purchase price paid, $540.00; interest paid, $195.30. Deed issued Jan. 11, 1894, to Juana C. Araiza. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 1,080 acres of land described above.

Contract No. 3,926.

Issued Sept. 19, 1884, to James Rawson and George Auld, for all of section 31, township 6 south, range 1 west,

S. B. M., 625.75 acres. Agreed purchase price, $312.87. Purchase price paid, $312.87; interest paid, $88.24. Deed issued May 2, 1896, to James Rawson and George Auld. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 625.75 acres of land described above.

Contract No. 3,792.

Issued July 7, 1884, to James Rawson, for the southwest quarter of the southeast quarter of section 33, township 6 south, range 1 west, S. B. M., 40 acres. Agreed purchase price, $100.00. Purchase price paid, $100.00; interest paid, $28.00. Deed issued July 16, 1889, to James Rawson. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 40 acres of land described above.

Contract No. 4,445.

Issued Mar. 16, 1885, to James M. Clogston, for the east half and the east half of the northwest quarter of section 35, township 6 south, range 1 west, S. B. M., 400 acres. Agreed purchase price, $600.00. Purchase price paid, $600.00; interest paid, $111.72. Deed issued Oct. 9, 1888, to James M. Clogston. Present owner of contract, ———— ————. Patent No. 7. Issued Dec. 27, 1883, for 400 acres of land described above.

Contract No. 8,779.

Issued Nov. 14, 1887, to Richard Melrose, for the west half of the northwest quarter and the southwest quarter of section 35, township 6 south, range 1 west, S. B. M., 240 acres. Agreed purchase price, $180.00. Purchase price paid, $180.00; interest paid, $43.57. Deed issued

Mar. 9, 1893, to Alexander J. Mead. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 240 acres of land described above.

Contract No. 10,084.

Issued May 20, 1889, to Angelo Domenegori, for the northeast quarter of section 1, township 6 south, range 2 west, S. B. M., 165.29 acres. Agreed purchase price, $1,776.86. Purchase price paid, $425.17; interest paid, $295.04. Deed issued ———————— to ————————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 165.29 acres of land described above.

Contract No. 4,101.

Issued Nov. 20, 1884, to A. Domenegori, for the north half of the southeast quarter of section 1, township 6 south, range 2 west, S. B. M., 81.66 acres. Agreed purchase price, $173.50. Purchase price paid, $173.50; interest paid, $48.55. Deed issued June 3, 1889, to A. Domenegori. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 81.66 acres of land described above.

Contract No. 5,048.

Issued Dec. 11, 1885, to A. Domenegori, for the south half of the southeast quarter of section 1, and the southeast quarter of the southeast quarter of section 11, township 6 south, range 2 west, S. B. M., 122.35 acres. Agreed purchase price, $143.50. Purchase price paid, $143.50; interest paid, $———. Deed issued Nov. 9, 1892, to A. Domenegori. Present owner of contract, ————————,

Patent No. 18. Issued Oct. 7, 1891, for 122.35 acres of land described above.

Contract No. 10,085.

Issued May 20, 1889, to A. Domenegori, for the northwest quarter of section 1, township 6 south, range 2 west, S. B. M., 165.37 acres. Agreed purchase price, $2,067.12. Purchase price paid, $413.42; interest paid, $347.28. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 165.37 acres of land described above.

Contract No. 10,086.

Issued May 20, 1889, to Angelo Domenegori, for the southwest quarter of section 1, township 6 south, range 2 west, S. B. M., 166.26 acres. Agreed purchase price, $2,660.16. Purchase price paid, $532.03; interest paid, $546.91. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 166.26 acres of land described above.

Contract No. 10,087.

Issued May 20, 1889, to Angelo Domenegori, for the northeast quarter of section 3, township 6 south, range 2 west, S. B. M., 161.48 acres. Agreed purchase price, $1,009.25. Purchase price paid, $201.85; interest paid, $169.56. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 161.48 acres of land described above.

Contract No. 10,088.

Issued May 30, 1889, to Angelo Domenegori, for the northwest quarter of section 3, township 6 south, range 2 west, S. B. M., 161.08 acres. Agreed purchase price, $2,577.28. Purchase price paid, $515.45; interest paid, $432.99. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 161.08 acres of land described above.

Contract No. 10,089.

Issued May 20, 1889, to Angelo Domenegori, for the southeast quarter of section 3, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $1,920. Purchase price paid, $384.00; interest paid, $322.56. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,090.

Issued May 20, 1889, to Angelo Domenegori, for the southwest quarter of section 3, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $2,400. Purchase price paid, $480.00; interest paid, $404.20. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,083.

Issued May 20, 1889, to G. T. Dilworth, for the southwest quarter of section 5, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $2,240.00.

Purchase price paid, $448.00; interest paid, $627.20. Deed issued ———— to ————. Present owner of contract, G. T. Dilworth. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,796.

Issued Aug. 19, 1891, to H. B. Helfinstine, for the northwest quarter of section 5, township 6 south, range 2 west, S. B. M., 160.04 acres. Agreed purchase price, $1,600.40. Purchase price paid, $320.08; interest paid, $179.24. Deed issued ———— to ————. Present owner of contract, B. B. Helfinstine. Patent No. 28. Issued Dec. 22, 1894, for 160.04 acres of land described above.

Contract No. 3,612.

Issued May 26, 1884, to Frank H. Carpenter, for the northeast quarter of section 7, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $880.00. Purchase price paid, $880.00; interest paid, $275.98. Deed issued Jan. 28, 1890, to Ira Carpenter. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,814.

Issued July 18, 1884, to C. S. Carpenter, for the east half of the northwest quarter of section 7, township 6 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $122.25. Deed issued Jan. 28, 1890, to Ira Carpenter. Present owner of contract, ————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,822.

Issued July 22, 1884, to Bertrand Peyregue, for the west half of the northwest quarter of section 7, township 6 south, range 2 west, S. B. M., 76.80 acres. Agreed purchase price, $373.72. Purchase price paid, $373.72; interest paid, $104.60. Deed issued Aug. 20, 1889, to Chas. Castera. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 76.80 acres of land described above.

Contract No. 5,413.

Issued March 5, 1886, to John Cook, for the north half of the southeast quarter and the north half of the southwest quarter of section 7, township 6 south, range 2 west, S. B. M., 159.30 acres. Agreed purchase price, $398.25. Purchase price paid, $398.25; interest paid, $125.42. Deed issued Oct. 22, 1891, to J. F. Bandholdt. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 80 acres of land described above. Also patent No. 7. Issued Dec. 27, 1883, for 79.30 acres of land described above.

Contract No. 6,043.

Issued Nov. 16, 1886, to M. L. Wicks, for the south half of the southeast quarter and the south half of the southwest quarter of section 7, township 6 south, range 2 west, S. B. M., 159.90 acres. Agreed purchase price, $399.75. Purchase price paid, $79.95; interest paid, $89.52. Deed issued ———————— to ————————. Present owner of contract, Chas. N. Richards. Patent No. 7. Issued Dec. 27, 1883, for 159.90 acres of land described above.

Contract No. 10,091.

Issued May 20, 1889, to Angelo Domenegori, for the west half of the northeast quarter of section 9, township 6 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $1,060.00. Purchase price paid, $212.00; interest paid, $178.08. Deed issued ——— to ———. Present owner of contract, Angelo Domenegori. Patent No. 28. Issued Dec. 22, 1894, for 80 acres of land described above.

Contract No. 10,092.

Issued May 20, 1889, to Angelo Domenegori, for the northwest quarter of section 9, township 2 south, range 6 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $320.00; interest paid, $268.80. Deed issued ——— to ———. Present owner of contract, Angelo Domenegori. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,093.

Issued May 20, 1889, to Angelo Domenegori, for the southeast quarter of section 9, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $1,600. Purchase price paid, $320.00; interest paid, $268.80. Deed issued ——— to ———. Present owner of contract, Angelo Domenegori. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,094.

Issued May 20, 1889, to Angelo Domenegori, for the southwest quarter of section 9, township 6 south, range 2

west, S. B. M., 160 acres. Agreed purchase price, $1,440.00. Purchase price paid, $288.00; interest paid, $241.92. Deed issued ———— to ————. Present owner of contract, Angelo Domenegori. Patent No. 28. Issued Dec. 22, 1894, for 160 acres of land described above.

Contract No. 10,097.

Issued May 27, 1889, to Angelo Domenegori, for the north half of the southwest quarter; the northeast quarter of the southeast quarter; the west half of the southeast quarter of section 11, township 6 south, range 2 west, S. B. M., 600.83 acres. Agreed purchase price, $5,490.45. Purchase price paid, $1,098.09; interest paid, $922.38. Deed issued ————, to ————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 600.83 acres of land described above.

Contract No. 6,036.

Issued Nov. 11, 1886, to M. L. Wicks, for all of section 13, township 6 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $320. Purchase price paid, $320; interest paid, $232.91. Deed issued April 13, 1894, to John D. Bicknell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 11,024.

Issued Feb. 8, 1892, to Angelo Domenegori, for the northeast quarter of section 15, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $22.40. Deed is-

sued ————————, to ————————. Present owner of contract, Angelo Domenegori. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 6,044.

Issued Nov. 16, 1886, to M. L. Wicks, for the north half of section 17, township 6 south, range 2 west, S. B.M., 320 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $403.20. Deed issued ————, to ————————. Present owner of contract, S. A. W. Carver. Patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 3,858.

Issued August 7, 1884, to P. P. Carnes, for the northeast quarter of section 17, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $102. Deed issued March 4, 1889, to P. P. Carnes. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,772.

Issued Aug. 22, 1885, to S. Gregory Lines, for the southwest quarter of section 17, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued Oct. 16, 1890, to S. Gregory Lines. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,867.

Issued Aug. 23, 1886, to A. J. Doran, for the east half of the northwest quarter; the northeast quarter of the southwest quarter and lot 3 of section 19, township 6 south, range 2 west, S. B. M., 568.70 acres. Agreed purchase price, $1,421.75. Purchase price paid, $1,421.75; Interest paid, $514.36. Deed issued Jan. 17, 1893, to Lucien E. Walker. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 568.70 acres of land described above.

Contract No. 6,037.

Issued Nov. 16, 1886, to M. L. Wicks, for the northeast quarter of section 21, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $170.50. Deed issued Nov. 13, 1894, to W. F. Holland. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,038.

Issued Nov. 16, 1886, to M. L. Wicks, for the northwest quarter of section 21, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $170.50. Deed issued Nov. 13, 1894, to W. F. Holland. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,039.

Issued Nov. 16, 1886, to M. L. Wicks, for the southeast quarter of section 21, township 6 south, range 2 west, S.

B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $170.50. Deed issued Nov. 13, 1894, to W. F. Holland. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,040.

Issued Nov. 16, 1886, to M. L. Wicks, for the southwest quarter of section 21, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $170.50. Deed issued Nov. 13, 1894, to W. F. Holland. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 6,041.

Issued Nov. 16, 1886, to M. L. Wicks, for all of section 23, township 6 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $960. Purchase price paid, $192; interest paid, $322.56. Deed issued ————————, to ————————. Present owner of contract, Joseph Mondy. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 4,824.

Issued Sept. 11, 1885, to C. White, for all of section 27, township 6 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $453.72. Deed issued Nov. 13, 1890, to A. H. Judson, Mrs. M. S. Potts, Mrs. F. E. Bridges. Present owner of contract, ————————. Patent No. 7.

Issued Dec. 27, 1883, for 640 acres of land described above.

Contract No. 6,042.

Issued Nov. 16, 1886, to M. L. Wicks, for the northeast quarter of section 29, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $160. Purchase price paid, $32; interest paid, $35.84. Deed issued ————, to ————. Present owner of contract, C. N. Richards. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 5,050.

Issued Dec. 11, 1885, to George B. Silliman, for the northwest quarter of section 29, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $140. Deed issued Feb. 23, 1894, to Edw. Beall. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 5,055.

Issued Dec. 11, 1885, to George B. Silliman, for the southeast quarter of section 29, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $60.38. Deed issued Aug. 28, 1888, to Chas. L. Metzgar. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,771.

Issued Aug. 22, 1885, to S. Gregory Lines, for the southwest quarter of section 29, township 6 south, range 2

west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Deed issued Oct. 16, 1890, to S. Gregory Lines. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,669.

Issued June 14, 1886, to Henry C. Thompson, for the north half of section 31, township 6 south, range 2 west, S. B. M., 334 acres. Agreed purchase price, $835. Purchase price paid, $835; interest paid, $412.64. Deed issued April 22, 1895, to Thomas B. Cole. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 324 acres of land described above.

Contract No. 5,670.

Issued June 14, 1886, to Henry C. Thompson, for the southeast quarter of section 31, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $197.62. Deed issued April 22, 1895, to Thomas B. Cole. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,049.

Issued Dec. 11, 1885, to A. Garringer, for the southwest quarter of section 31, township 6 south, range 2 west, S. B. M., 175.60 acres. Agreed purchase price, $439. Purchase price paid, $439; interest paid, $122.90. Deed issued May 2, 1896, to A. Garringer. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 175.60 acres of land described above.

Contract No. 4,862.

Issued Sept. 28, 1885, to C. White, for the north half of section 33, township 6 south, range 2 west, S. B. M., 320 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112.28. Deed issued Nov. 13, 1890, to A. H. Judson, Mrs. M. S. Potts, Mrs. F. E. Bridges. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 3,290.

Issued March 10, 1884, to Mary A. Higbey, for the southeast quarter of section 33, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $160. Purchase price paid, $160; interest paid, $22.78. Deed issued Nov. 8, 1886, to Mary A. Higbey. Present owner of contract, ————. Patent No. 10. Issued Jan. 9, 1885, for 160 acres of land described above.

Contract No. 3,296.

Issued March 10, 1884, to Mary A. Higbey, for the southwest quarter of section 33, township 6 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $56.95. Deed issued Nov. 8, 1896, to Mary A. Higbey. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,379.

Issued Feb. 1, 1886, to Thomas B. Stevenson, for the northeast quarter of section 1, township 6 south, range 3 west, S. B. M., 160.49 acres. Agreed purchase price,

$682.08. Purchase price paid, $682.08; interest paid, $31.30. Deed issued Dec. 27, 1886, to Thomas B. Stevenson. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160.49 acres of land described above.

Contract No. 5,278.

Issued Feb. 1, 1886, to Ira Carpenter, for the west half of section 1, township 6 south, range 3 west, S. B. M., 321.49 acres. Agreed purchase price, $843.72. Purchase price paid, $843.72; interest paid, $236.20. Deed issued March 19, 1891, to Wendall J. Spencer. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 321.49 acres of land described above.

Contract No. 4,233.

Issued Jan. 29, 1885, to R. M. Kirkland, for the southeast quarter of section 1, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $680. Purchase price paid, $680; interest paid, $187.55. Deed issued Jan. 28, 1890, to Ira Carpenter. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,575.

Issued May 19, 1884, to Jacob Baruch, for all of section 3, township 6 south, range 3 west, S. B. M., 645 acres. Agreed purchase price, $2,805. Purchase price paid, $2,805; interest paid, $826.42. Deed issued Aug. 28, 1889, to Jacob Baruch. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for

325 acres of land described above. Also patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 5,051.

Issued Dec. 11, 1885, to J. B. Ferrell, for the northwest quarter of section 5, township 6 south, range 3 west, S. B. M., 158.17 acres. Agreed purchase price, $1,186.27. Purchase price paid, $237.25; interest paid, $332.15. Deed issued ————, to ————. Present owner of contract, J. B. Ferrell. Patent No. 30. Issued Jan. 20, 1896, for 158.17 acres of land described above.

Contract No. 6,291.

Issued Jan. 28, 1887, to J. D. Bicknell, for the northeast quarter and the south half of section 5, township 6 south, range 3 west, S. B. M., 464.24 acres. Agreed purchase price, $1,001.76. Purchase price paid, $200.35; interest paid, $356.54. Deed issued ————, to————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 464.24 acres of land described above.

Contract No. 6,078.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 7, township 6 south, range 3 west, S. B. M., 624.38 acres. Agreed purchase price, $1,012.51. Purchase price paid, $202.50; interest paid, $340.20. Deed issued ————, to ————. Present owner of contract, Jno. D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 624.38 acres of land described above.

Contract No. 6,079.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for the northwest quarter of section 9, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $128; interest paid, $215.04. Deed issued ————————, to ————————. Present owner of contract, Jno. D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 120 acres of land described above.

Contract No. 5,885.

Issued Aug. 30, 1886, to L. E. Walker, for the southeast quarter of section 9, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $192; interest paid, $477.84. Deed issued ————————, to ————————. Present owner of contract, S. E. Walker. Patent No. 30. Issued Jan. 20, 1896, for 120 acres of land described above.

Contract No. 5,816.

Issued Aug. 4, 1886, to Jno. F. McGrath, for the southwest quarter of section 9, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $268.80. Deed issued May 2, 1896, to Jno. T. McGrath. Present owner of contract, ————————. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 5,817.

Issued Aug. 4, 1886, to Jno. T. McGrath, for the northeast quarter of section 9, township 6 south, range 3 west,

S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $268.80. Deed issued May 2, 1896, to John T. McGrath, for the southwest quarter of the northeast quarter and the east half of the northeast quarter. Present owner of contract, ————. Patent No. 30. Issued Jan. 20, 1896, for 120 acres of land described above.

Contract No. 6,079.

Issued Nov. 26, 1886, to M. L. Wicks and Jno. D. Bicknell, for the northwest quarter of section 9, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $128; interest paid, $215.04. Deed issued ————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 120 acres of land described above.

Contract No. 5,885.

Issued Aug. 30, 1886, to L. E. Walker, for the southeast quarter of section 9, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $192; interest paid, $483.80. Deed issued ————, to ————. Present owner of contract, S. E. Walker. Patent No. 30. Issued Jan. 20, 1896, for 120 acres of land described above.

Contract No. 5,816.

Issued Aug. 4, 1886, to John T. McGrath, for the southwest quarter of section 9, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $268.80. Deed is-

sued May 2, 1896, to John T. McGrath. Present owner of contract, ————————. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 5,069.

Issued Dec. 15, 1885, to R. C. Kirkpatrick, for the north half of section 11, township 6 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $266.26. Deed issued Dec. 4, 1890, to R. C. Kirkpatrick. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 5,386.

Issued Feb. 27, 1886, to Hans. Christensen, for the southeast quarter of the north half of the southwest quarter and the southeast quarter of the southwest quarter of section 11, township 6 south, range 3 west, S. B. M., 280 acres. Agreed purchase price, $840. Purchase price paid, $840; interest paid, $65.74. Deed issued March 26, 1888, to Hans Christensen. Patent No. 7. Issued Dec. 27, 1883, for 280 acres of land described above.

Contract No. 6,080.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 13, township 6 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $3.840. Purchase price paid, $768; interest paid, $1,290.24. Deed issued ————————, to ————————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 480 acres of land described above.

Contract No. 6,081.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for the south half of section 15, township 6 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,440. Purchase price paid, $288; interest paid, $483.84. Deed issued ————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 320 acres of land described above.

Contract No. 5,106.

Issued Jan. 4, 1886, to A. G. Kirkpatrick, for the northeast quarter of section 15, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $268.80. Deed issued May 8, 1896, to A. G. Kirkpatrick. Present owner of contract, ————. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 5,385.

Issued Feb. 27, 1886, to Hans Christensen, for the northwest quarter of section 15, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $46.95. Deed issued ————, to ————. Present owner of contract, Hans Christensen. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 5,884.

Issued Aug. 30, 1886, to L. E. Walker, for all of section 17, township 6 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $2,160. Purchase price paid,

$432; interest paid, $846.72. Deed issued ————, to ————. Present owner of contract, L. E. Walker. Patent No. 30. Issued Jan. 20, 1896, for 640 acres of land described above.

Contract No. 6,082.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 19, township 6 south, range 3 west, S. B. M., 627.11 acres. Agreed purchase price, $1,881.33. Purchase price paid, $376.26; interest paid, $631.10. Deed issued ————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 627.11 acres of land described above.

Contract No. 6,083.

Issued Nov. 26, 1886, to M. L. Wicks and Jno. D. Bicknell, for the south half and the northwest quarter of section 21, township 6 south, range 3 west, S. B. M., 480 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200; interest paid, $383.95. Deed issued May 2, 1896, to L. H. Titus. Present owner of contract, ————. Patent No. 30. Issued Jan. 20, 1896, for 480 acres of land described above.

Contract No. 5,564.

Issued May 3, 1886, to H. H. Evans, for the northeast quarter of section 21, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $156.78. Deed issued May 2, 1896, to L. H. Titus. Present owner of contract, ————. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 5,214.

Issued Jan. 14, 1886, to Claus Burfeind, for the north half of section 23, township 6 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $1,920. Purchase price paid, $1,920; interest paid, $509.45. Deed issued Oct. 13, 1890, to Claus Burfeind and Richd. Burfeind. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 5,780.

Issued July 23, 1886, to Claus Burfeind, for the southeast quarter of section 23, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $259.84. Deed issued May 25, 1891, to Claus Burfeind. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 5,076.

Issued Dec. 16, 1885, to W. T. Kirkpatrick, for the southwest quarter of section 23, township 6 south, range 3 west, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $266.10. Deed issued May 8, 1896, to W. T. Kirkpatrick. Present owner of contract, ————. Patent No. 30. Issued Jan. 20, 1896, for 160 acres of land described above.

Contract No. 5,946.

Issued Sept. 28, 1886, to Jno. W. Rawson, for the west half of the southeast quarter and the northeast quarter

of section 25, township 6 south, range 3 west, S. B. M., 240 acres. Agreed purchase price, $600. Purchase price paid, $120; interest paid, $336. Deed issued ————, to ————. Present owner of contract, Jno. W. Rawson. Patent No. 30. Issued Jan. 20, 1896, for 240 acres of land described above.

Contract No. 5,945.

Issued Sept. 28, 1886, to Jno. W. Rawson, for the west half of section 25, township 6 south, range 3 west, S. B. M., 320 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $448. Deed issued ————, to ————. Present owner of contract, Jno. W. Rawson. Patent No. 30. Issued Jan. 20, 1896, for 320 acres of land described above.

Contract No. 6,084.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 27, township 6 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $320; interest paid, $537.60. Deed issued ————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 640 acres of land described above.

Contract No. 6,085.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 29, township 6 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $480. Purchase price paid, $96; interest paid, $161.28. Deed issued

————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 640 acres of land described above.

Contract No. 6,086.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 31, township 6 south, range 3 west, S. B. M., 628.92 acres. Agreed purchase price, $1,646.76. Purchase price paid, $329.35; interest paid, $553.32. Deed issued ————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 628.92 acres of land described above.

Contract No. 6,087.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of fractional section 33, township 6 south, range 3 west, S. B. M., 591.73 acres. Agreed purchase price, $591.73. Purchase price paid, $118.34; interest paid, $198.84. Deed issued ————, to ————. Present owner of contract, John D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 591.73 acres of land described above.

Contract No. 6,088.

Issued Nov. 26, 1886, to M. L. Wicks and J. D. Bicknell, for all of section 35, township 6 south, range 3 west, S. B. M., 640 acres. Agreed purchase price, $800. Purchase price paid, $160; interest paid, $44.80. Deed issued ————, to ————. Present owners of contract, M. L. Wicks and J. D. Bicknell. Patent No. 30. Issued Jan. 20, 1896, for 640 acres of land described above.

Contract No. 6,362.

Issued Feb. 28, 1887, to Wm. H. Carlson and H. T. Christian, for all of section 1, township 6 south, range 4 west, S. B. M., 634.44 acres. Agreed purchase price, $1,586.10. Purchase price paid, $317.22; interest paid, $177.64. Deed issued ————, to ————. Present owner of contract, Wm. H. Carlson and H. T. Christian. Patent No. 23. Issued Nov. 5, 1892, for 634.44 acres of land described above.

Contract No. 5,837.

Issued Aug. 9, 1886, to F. H. Heald, for the fractional north half of section 5, township 6 south, range 4 west, S. B. M., 258.86 acres. Agreed purchase price, $647.15. Purchase price paid, $129.43; interest paid, $144.96. Deed issued ————, to ————. Present owner of contract, F. H. Heald. Patent No. 23. Issued Nov. 5, 1892, for 258.86 acres of land described above.

Contract No. 5,273.

Issued Jan. 30, 1886, to J. B. Muller and L. B. Peck, for the southeast quarter of section 5, township 6 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $336. Deed issued July 25, 1893, to J. B. Muller and Nettie H. Muller. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 3,281.

Issued March 5, 1884, to D. M. Graham, for the fractional southwest quarter of section 5, and lots 1 and 2 of

section 7, township 6 south, range 4 west, S. B. M., 128.63 acres. Agreed purchase price, $1,286.30. Purchase price paid, $1,286.30; interest paid, $200.05. Deed issued Jan. 7, 1887, to F. H. Heald. Present owner of contract, ————. Patent No. 10. Issued Jan. 9, 1885, for 128.63 acres of land described above.

Contract No. 5,543.

Issued April 19, 1886, to J. P. Miller, for the northeast quarter, the east half of the northwest quarter, and lots 2 and 3 of section 9, township 6 south, range 4 west, S. B. M., 270.94 acres. Agreed purchase price, $514.70. Purchase price paid, $514.70; interest paid, $35.40. Deed issued March 29, 1893, to J. P. Miller. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 270.94 acres of land described above.

Contract No. 3,349.

Issued March 20, 1884, to Alexander Graham and H. Capper, for the northwest quarter of the northwest quarter, the southwest quarter of the northwest quarter, and lot 1 of section 9, township 6 south, range 4 west, S. B. M., 100.45 acres. Agreed purchase price, $402.25. Purchase price paid, $402.25; interest paid, $20.02. Deed issued March 9, 1885, to Alexander Graham and Herbert Capper. Present owner of contract, ————. Patent No. 10. Issued Jan. 9, 1884, for 100.45 acres of land described above.

Contract No. 3,084.

Issued Jan. 24, 1884, to D. M. Graham, for the southeast quarter of section 9, township 6 south, range 4 west, S. B.

M., 159.14 acres. Agreed purchase price, $1,591.40. Purchase price paid, $1,591.40; interest paid, $216.11. Deed issued June 30, 1886, to F. H. Heald. Present owner of contract, ————————. Patent No. 10. Issued Jan. 9, 1884, for 159.14 acres of land described above.

Contract No. 6,158.

Issued Dec. 20, 1886, to W. H. Carlson, for all of section 11, township 6 south, range 4 west, S. B. M., 640 acres. Agreed purchase price, $960. Purchase price paid, $192; interest paid, $107.46. Deed issued ————, to ————. Present owner of contract, W. H. Carlson. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 8,830.

Issued Dec. 16, 1887, to Geo. F. Stewart, for the north half of the northwest quarter, and the southeast quarter of the northwest quarter of section 15, township 6 south, range 4 west, S. B. M., 120 acres. Agreed purchase price, $180. Purchase price paid, $180; interest paid, $56.28. Deed issued July 1, 1893, to A. B. Salisbury. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 120 acres of land described above.

Contract No. 4,419.

Issued March 6, 1885, to John G. Hoffman and Jno. T. Deatwiler, for the east half of the southwest quarter, and the southwest quarter of the southeast quarter of section 15, township 6 south, range 4 west, S. B. M., 120 acres. Agreed purchase price, $520. Purchase price paid, $520;

interest paid, $145.60. Deed issued May 26, 1894, to John J. Hoffman and Mathias Hoffman. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 120 acres of land described above.

Contract No. 3,922.

Issued Sept. 14, 1884, to Alfred Ehrlich, for the southwest quarter of the northwest quarter, and the west half of the southwest quarter of section 15, township 6 south, range 4 west, S. B. M., 120 acres. Agreed purchase price, $520. Purchase price paid, $520; interest paid, $150.85. Deed issued March 3, 1893, to John Q. Bell. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 120 acres of land described above.

Contract No. 3,307.

Issued March 12, 1884, to Mrs. Mary E. Myers, for all fractional section 19, township 6 south, range 4 west, S. B. M., 215.99 acres. Agreed purchase price, $1,725. Purchase price paid, $1,725; interest paid, $483. Deed issued March 14, 1889, to Donald M. Graham and Wm. Collier. Present owner of contract, ————————. Patent No. 10. Issued Jan. 9, 1885, for 215.99 acres of land described above.

Contract No. 3,406.

Issued April 8, 1884, to J. W. Bundy, for the west half of the northeast quarter of section 23, township 6 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $48.06. Deed issued Nov. 17, 1887, to L. W. Noyes and M. Stalker. Present owner of contract, ————————. Patent No. 10. Issued Jan. 9, 1885, for 80 acres of land described above.

Contract No. 3,790.

Issued July 7, 1884, to J. W. Bundy, for the east half of the northeast quarter of section 23, township 6 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $48; interest paid, $67.20. Deed issued ————, to ————. Present owner of contract, J. W. Bundy. Patent No. 10. Issued Jan. 9, 1885, for 80 acres of land described above.

Contract No. 3,790.

Issued July 7, 1884, to Saml. Bundy, for the east half of the northwest quarter of section 23, township 6 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $88.59. Deed issued June 3, 1893, to La Verne W. Noyes. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 80 acres of land described above.

Contract No. 3,788.

Issued July 7, 1884, to O. J. Bundy, for the southeast quarter of section 23, township 6 south, range 4 west, S. B. M., 160 acres. Agreed purchase price, $480. Purchase price paid, $480; interest paid, $143.50. Deed issued April 22, 1893, to H. K. Perry and La Verne W. Noyes. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 3,731.

Issued June 23, 1884, to E. Z. Bundy, for the east half of the southwest quarter of section 23, township 6 south, range 4 west, S. B. M., 80 acres. Agreed purchase price,

$240. Purchase price paid, $240; interest paid, $89.04. Deed issued June 3, 1893, to La Verne W. Noyes. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 80 acres of land described above.

Contract No. 3,770.

Issued June 30, 1884, to E. Z. Bundy, for the west half of the southwest quarter of section 23, township 6 south, range 4 west, S. B. M., 80 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $71.68. Deed issued June 1, 1893, to James P. Mushrush. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 80 acres of land described above.

Contract No. 3,351.

Issued March 20, 1884, to S. D. Bryant, for all fractional section 27, township 6 south, range 4 west, S. B. M., 336.43 acres. Agreed purchase price, $1,682.15. Purchase price paid, $1,682.15; interest paid, $94.20. Deed issued March 24, 1885, to S. D. Bryant. Present owner of contract, ————————. Patent No. 10. Issued Jan. 9, 1885, for 336.43 acres of land described above.

Contract No. 4,094.

Issued Nov. 13, 1884, to S. P. Bailey, for all fractional section 29, township 6 south, range 4 west, S. B. M., 407.20 acres. Agreed purchase price, $1,221.60. Purchase price paid, $1,221.60; interest paid, $575.70. Deed issued April 26, 1893, to Elsinore Orange Grove and Vineyard Co. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 407.20 acres of land described above.

Contract No. 4,298.

Issued Feb. 6, 1885, to Emmar Rood and E. Z. Bundy, for all fractional section 33, township 6 south, range 4 west, S. B. M., 403.85 acres. Agreed purchase price, $1,000. Purchase price paid, $1,000; interest paid, $466.65. Deed issued June 12, 1893, to James Hirst and John T. Rood. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 403.85 acres of land described above.

Contract No. 3,432.

Issued April 16, 1884, to Samuel C. Freefield, for lots 1, 2 and 3 of section 35, township 6 south, range 4 west, S. B. M., 78.07 acres. Agreed purchase price, $390.35. Purchase price paid, $390.35; interest paid, $102.62. Deed issued Jan. 12, 1889, to Donald M. Graham and Wm. Collier. Present owner of contract, ————. Patent No. 10. Issued Jan. 9, 1885, for 78.07 acres of land described above.

Contract No. 4,235.

Issued Jan. 29, 1885, to Samuel Bundy, for the northeast quarter of section 35, township 6 south, range 4 west, S. B. M., 159.82 acres. Agreed purchase price, $799.10. Purchase price paid, $799.10; interest paid, $391.59. Deed issued May 25, 1893, to C. H. Lewis. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 159.82 acres of land described above.

Contract No. 4,315.

Issued Feb. 9, 1885, to O. J. Bundy, for lots 5, 6 and 7 of section 35, township 6 south, range 4 west, S. B. M.,

67.56 acres. Agreed purchase price, $337.80. Purchase price paid, $337.80; interest paid, $156.51. Deed issued May 25, 1893, to C. H. Lewis. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 67.56 acres of land described above.

Contract No. 9,341.

Issued Feb. 10, 1888, to Sanford S. Smith, for lots 1, 2 and 5 of section 3, township 6 south, range 5 west, S. B. M., 60.84 acres. Agreed purchase price, $912.60. Purchase price paid, $912.60; interest paid, $——. Quitclaim deed issued March 19, 1888, to Sanford S. Smith. Present owner of contract, ————. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 9,632.

Issued May 25, 1888, to Warren T. Hohenshell, for lot of section 11, township 6 south, range 5 west, S. B. M., 11.06 acres. Agreed purchase price, $221.20. Purchase price paid, $221.20; interest paid, $——. Deed issued July 16, 1888, to Warren T. Hohenshell. Present owner of contract, ————. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 9,387.

Issued Feb. 20, 1888, to L. S. Mason, for lots 1, 2 and 3 of section 13, township 6 south, range 5 west, S. B. M., 71.40 acres. Agreed purchase price, $1,785. Purchase price paid, $1,785; interest paid, $——. Deed issued March 19, 1888, to L. S. Mason. Present owner of contract, ————. Patent No. ——. Issued ————, for —— acres of land described above.

Contract No. 10,934.

Issued Nov. 23, 1891, to Fredk. Stevens, for the west half of the southwest quarter of section 1, township 6 south, range 7 west, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $80; interest paid, $89.60. Deed issued ————, to ————. Present owner of contract, Fredk. Stevens. Patent No. 23. Issued Nov. 5, 1892, for 80 acres of land described above.

Contract No. 10,072.

Issued April 19, 1889, to A. J. Cook, for lots 1 and 2 of section 9, township 6 south, range 7 west, S. B. M., 65.85 acres. Agreed purchase price, $526.80. Purchase price paid, $105.36; interest paid, $59. Deed issued ————, to ————. Present owner of contract, A. J. Cook. Patent No. 30. Issued Jan. 20, 1896, for 65.85 acres of land described above.

Contract No. 10,099.

Issued May 29, 1889, to Geo. F. Havens, for the northeast quarter of section 11, township 6 south, range 7 west, S. B. M., 160 acres. Agreed purchase price, $640. Purchase price paid, $384; interest paid, $268.80. Deed issued ————, to ————. Present owner of contract, Geo. F. Havens. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 10,098.

Issued May 28, 1889, to Edw. D. Rowell, for the south half of the northwest quarter, and the fractional south half of section 11, township 6 south, range 7 west, S. B. M.,

354.20 acres. Agreed purchase price, $1,711. Purchase price paid, $1,711; interest paid, $479.05. Deed issued May 29, 1894, to Edw. D. Rowell. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 354.20 acres of land described above.

Contract No. 10,073.

Issued April 19, 1889, to W. K. Robinson, for all of section 13, township 6 south, range 7 west, S. B. M., 640 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $896. Deed issued April 20, 1894, to W. K. Robinson. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 10,074.

Issued April 19,1889, to W. K. Robinson, for lot 1 of section 23, township 6 south, range 7 west, S. B. M., 40.27 acres. Agreed purchase price, $120.81. Purchase price paid, $120.81; interest paid, $32.65. Deed issued Feb. 23, 1894, to J. C. Joplin. Present owner of contract, ———. Patent No. 23. Issued Nov. 5, 1892, for 40.27 acres of land described above.

Contract No. 10,053.

Issued March 25, 1889, to C. White, for all fractional section 7, township 7 south, range 1 west, S. B. M., 612.80 acres. Agreed purchase price, $2,144.80. Purchase price paid, $428.96; interest paid, $120.11. Deed issued ———, to ————. Present owner of contract, C. White. Patent No. 23. Issued Nov. 5, 1892, for 612.80 acres of land described above.

Contract No. 10,904.

Issued Nov. 10, 1891, to A. L. Bryan, for all fractional section 9, township 7 south, range 1 west, S. B. M., 474.30 acres. Agreed purchase price, $1,185.75. Purchase price paid, $237.15; interest paid, $332. Deed issued ————, to ————. Present owner of contract, A. L. Bryan. Patent No. 23. Issued Nov. 5, 1892, for 474.30 acres of land described above.

Contract No. 11,360.

Issued March 11, 1895, to Rich'd Derby, for lot 1 of section 13, township 7 south, range 1 west, S. B. M., 39.12 acres. Agreed purchase price, $97.80. Purchase price paid, $19.56; interest paid, $5.48. Deed issued ————, to ————. Present owner of contract, Rich'd Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.12 acres of land described above.

Contract No. 11,361.

Issued March 11, 1895, to Richard Derby, for lot 2 of section 13, township 7 south, range 1 west, S. B. M., 39.37 acres. Agreed purchase price, $98.43. Purchase price paid, $19.69; interest paid, $5.51. Deed issued ————, to ————. Present owner of contract, Rich'd Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.37 acres of land described above.

Contract No. 11,362.

Issued March 11, 1895, to Richard Derby, for lot 7 of section 13, township 7 south, range 1 west, S. B. M., 39.37 acres. Agreed purchase price, $98.43. Purchase price

paid, $19.69; interest paid, $5.51. Deed issued ————, to ————. Present owner of contract, Richd. Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.37 acres of land described above.

Contract No. 11,363.

Issued March 11, 1895, to Richard Derby, for lot 8, section 13, township 7 south, range 1 west, S. B. M., 39.12 acres. Agreed purchase price, $97.80. Purchase price paid, $19.56; interest paid, $5.48. Deed issued ————, to ————. Present owner of contract, Rich'd Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.12 acres of land described above.

Contract No. 11,364.

Issued March 11, 1895, to Richard Derby, for lot 3 of section 13, township 7 south, range 1 west, S. B. M., 39.62 acres. Agreed purchase price, $99.05. Purchase price paid, $19.81; interest paid, $5.55. Deed issued ————, to ————. Present owner of contract, Rich'd Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.62 acres of land described above.

Contract No. 11,365.

Issued March 11, 1895, to Richard Derby, for lot 4 of section 13, township 7 south, range 1 west, S. B. M., 39.87 acres. Agreed purchase price, $99.68. Purchase price paid, $19.94; interest paid, $5.58. Deed issued ————, to ————. Present owner of contract, Rich'd Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.87 acres of land described above.

Contract No. 11,366.

Issued March 11, 1895, to Richard Derby, for lot 5 of section 13, township 7 south, range 1 west, S. B. M., 39.87 acres. Agreed purchase price, $99.68. Purchase price paid, $19.94; interest paid, $5.58. Deed issued ———, to ———. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.87 acres of land described above.

Contract No. 11,367.

Issued March 11, 1895, to Richard Derby, for lot 6 of section 13, township 7 south, range 1 west, S. B. M., 39.62 acres. Agreed purchase price, $99.05. Purchase price paid, $19.81; interest paid, $5.55. Deed issued ———, to ———. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.62 acres of land described above.

Contract No. 11,368.

Issued March 11, 1895, to Richard Derby, for lot 9 of section 13, township 7 south, range 1 west, S. B. M., 39.33 acres. Agreed purchase price, $98.33. Purchase price paid, $19.65; interest paid, $5.51. Deed issued ———, to ———. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.33 acres of land described above.

Contract No. 11,369.

Issued March 11, 1895, to Richard Derby, for lot 10 of section 13, township 7 south, range 1 west, S. B. M., 39.52 acres. Agreed purchase price, $98.80. Purchase price

paid, $19.76; interest paid, $5.53. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.52 acres of land described above.

Contract No. 11,370.

Issued March 11, 1895, to Richard Derby, for lot 15 of section 13, township 7 south, range 1 west, S. B. M., 39.52 acres. Agreed purchase price, $98.80. Purchase price paid, $19.76; interest paid, $5.53. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.52 acres of land described above.

Contract No. 11,371.

Issued March 11, 1895, to Richard Derby, for lot 16 of section 13, township 7 south, range 1 west, S. B. M., 39.33 acres. Agreed purchase price, $98.33. Purchase price paid, $19.65; interest paid, $5.51. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.33 acres of land described above.

Contract No. 11,372.

Issued March 11, 1895, to Richard Derby, for lot 11 of section 13, township 7 south, range 1 west, S. B. M., 39.71 acres. Agreed purchase price, $99.28. Purchase price paid, $19.85; interest paid, $5.56. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.11 acres of land described above.

Contract No. 11,373.

Issued March 11, 1895, to Richard Derby, for lot 12 of section 13, township 7 south, range 1 west, S. B. M., 39.90 acres. Agreed purchase price, $99.75. Purchase price paid, $19.95; interest paid, $5.59. Deed issued ———, to ———. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.90 acres of land described above.

Contract No. 11,374.

Issued March 11, 1895, to Richard Derby, for lot 13 of section 13, township 7 south, range 1 west, S. B. M., 39.90 acres. Agreed purchase price, $99.75. Purchase price paid, $19.95; interest paid, $5.59. Deed issued ———, to ———. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.90 acres of land described above.

Contract No. 11,375.

Issued March 11, 1895, to Richard Derby, for lot 14 of section 13, township 7 south, range 1 west, S. B. M., 39.71 acres. Agreed purchase price, $99.28. Purchase price paid, $19.86; interest paid, $5.56. Deed issued ———, to ———. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 39.71 acres of land described above.

Contract No. 11,353.

Issued Sept. 26, 1894, to Jennie T. Culver, for all fractional section 15, township 7 south, range 1 west, S. B. M., 545.52 acres. Agreed purchase price, $1,363.80. Pur-

chase price paid, $272.76; interest paid, $76.37. Deed issued ————, to ————. Present owner of contract, Jennie T. Culver. Patent No. 23. Issued Nov. 5, 1892, for 545.52 acres of land described above.

Contract No. 3,598.

Issued May 24, 1884, to James Rawson, for the south half of the northeast quarter of section 1, township 7 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56.72. Deed issued June 20, 1889, to James Rawson. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,597.

Issued May 24, 1884, to George Auld, for the south half of the northwest quarter of section 1, township 7 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56. Deed issued June 12, 1889, to George Auld. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 80 acres of land described above.

Contract No. 3,896.

Issued Sept. 1, 1884, to James Rawson, for the north half of the northeast quarter of section 1, township 7 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $160. Purchase price paid, $160; interest paid, $45.55. Deed issued ————, to ————. Present owner of contract, James Rawson. Patent No. 23. Issued Nov. 5, 1892, for 80 acres of land described above.

Contract No. 4,899.

Issued Oct. 19, 1885, to C. White, for the south half of section 1, township 7 south, range 2 west, S. B. M., 320 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $372.30. Deed issued Nov. 13, 1894, to Annie S. Raymond. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 320 acres of land described above.

Contract No. 6,048.

Issued Nov. 16, 1886, to M. L. Wicks, for the north half of the northwest quarter of section 1, township 7 south, range 2 west, S. B. M., 80 acres. Agreed purchase price, $80. Purchase price paid, $16; interest paid, $4.48. Deed issued ————, to ————. Present owner of contract, M. L. Wicks. Patent No. 23. Issued Nov. 5, 1892, for 80 acres of land described above.

Contract No. 3,599.

Issued May 24, 1884, to Geo. W. Sparks and Geo. F. Sparks, for the north half of section 3, township 7 south, range 2 west, S. B. M., 320.80 acres. Agreed purchase price, $802. Purchase price paid, $802; interest paid, $133.49. Deed issued Aug. 21, 1893, to Louis Schron. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 320.80 acres of land described above.

Contract No. 3,600.

Issued May 24, 1884, to Geo. W. Sparkes and Geo. F. Sparkes, for the south half of section 3, township 7 south,

range 2 west, S. B. M., 320 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $133.16. Deed issued June 1, 1887, to Geo. W. Sparkes and Geo. F. Sparkes. Present owner of contract, ———. Patent No. 7. Issued Dec. 27, 1883, for 320 acres of land described above.

Contract No. 5,560.

Issued April 29, 1886, to Geo. Axe, for the northeast quarter of section 5, township 7 south, range 2 west, S. B. M., 161.32 acres. Agreed purchase price, $403.30. Purchase price paid, $403.30; interest paid, $85.62. Deed issued Feb. 25, 1890, to George Axe. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 161.32 acres of land described above.

Contract No. 5,559.

Issued April 29, 1886, to Wm. V. Pingry, for the northwest quarter of section 5, township 7 south, range 2 west, S. B. M., 160.76 acres. Agreed purchase price, $401.90. Purchase price paid, $401.90; interest paid, $33.75. Deed issued Dec. 3, 1887, to John O. Pingry. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 160.76 acres of land described above.

Contract No. 5,996.

Issued Oct. 26, 1886, to Mrs. S. R. Pefley, for the southeast quarter of section 5, township 7 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $160. Purchase price paid, $160; interest paid, $26.88. Deed issued Aug. 24, 1893, to Mrs. S. R. Pefley. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 5,994.

Issued Oct. 26, 1886, to Mrs. S. R. Pefley, for the southwest quarter of section 5, township 7 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $22.40. Deed issued Nov. 17, 1887, to Mrs. S. R. Pefley. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 4,204.

Issued Jan. 19, 1885, to Moses Perin, for the northeast quarter of section 7, township 7 south, range 2 west, S. B. M., 160 acres. Agreed purchase price, $240. Purchase price paid, $240; interest paid, $———. Deed issued Jan. 12, 1893, to Moses Perin. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 3,291.

Issued March 10, 1884, to Mary A. Higbey, for the west half of section 7, township 7 south, range 2 west, S. B. M., 355.20 acres. Agreed purchase price, $888. Purchase price paid, $888; interest paid, $150.48. Deed issued Oct. 7, 1887, to Mary A. Higbey. Present owner of contract, ————. Patent No. 10. Issued Jan. 9, 1885, for 355.20 acres of land described above.

Contract No. 5,510.

Issued April 7, 1886, to Mary A. Higbey, for the west half of the southeast quarter, the northeast quarter of the southeast quarter of section 7, township 7 south, range 2

west, and all of section 1, township 7 south, range 3 west, S. B. M., 761.18 acres. Agreed purchase price, $750.88. Purchase price paid, $750.88; interest paid, $210.20. Deed issued April 26, 1894, to Mary A. Higbey, for all except the northeast quarter of the southeast quarter of section 1. Deed issued April 7, 1886, to Mary A. Higbey, for the northeast quarter of the southeast quarter of section 1. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 721.18 acres of land described above. Also patent No. 30. Issued Jan. 20, 1896, for 40 acres of land described above.

Contract No. 11,396.

Issued Aug. 1, 1895, to Henry Von Rhaden, for the southeast quarter of the southeast quarter of section 7, township 7 south, range 2 west, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $11.20. Deed issued ————, to ————. Present owner of contract, Henry Von Rhaden. Patent No. 23. Issued Nov. 5, 1892, for 40 acres of land described above.

Contract No. 3,601.

Issued May 24, 1884, to Geo. W. Sparkes and Geo. F. Sparkes, for all of section 9, township 7 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $266.32. Deed issued June 1, 1887, to George Wand and George F. Sparkes. Present owner of contract, ————. Patent No. 7. Issued Dec. 27, 1883, for 640 acres of land described above.

Contract No. 3,602.

Issued May 24, 1884, to Geo. W. Sparkes and Geo. F. Sparkes, for all of section 11, township 7 south, range 2 west, S. B. M., 640 acres. Deed issued Oct. 29, 1889, to George W. Sparkes. Present owner of contract, ———. Patent No. 7. Issued Dec. 27, 1883, for 640 acres of land described above.

Contract No. 10,030.

Issued Feb. 9, 1889, to James M. Browning and S. L. Roripaugh, for all of section 13, township 7 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $270.55. Deed issued Nov. 3, 1884, to James M. Browning. Present owner of contract, ———. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 3,603.

Issued May 24, 1884, to George W. Sparkes and Geo. F. Sparkes, for all of section 15, township 7 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $485.33. Deed issued Oct. 29, 1889, to Geo. W. Sparkes. Present owner of contract, ———. Patent No. 7. Issued Dec. 27, 1883, for 640 acres of land described above.

Contract No. 10,022.

Issued Jan. 31, 1889, to A. R. Fabur, for all of section 17, township 7 south, range 2 west, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $368.35. Deed issued March 14, 1893,

to Eli Sparkes. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 6,018.

Issued Nov. 8, 1886, to Joseph Nicolas, for the east half of section 19, township 7 south, range 2 west, S. B. M., 276.89 acres. Agreed purchase price, $692.22. Purchase price paid, $692.22; interest paid, $192.75. Deed issued Nov. 3, 1891, to Joseph Nicolas. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 276.89 acres of land described above.

Contract No. 3,865.

Issued Aug. 18, 1884, to B. G. Warther, for the west half of section 19, township 7 south, range 2 west, S. B. M., 143.59 acres. Agreed purchase price, $430.77. Purchase price paid, $430.77; interest paid, $124.46. Deed issued Oct. 28, 1889, to Isaac N. Walter. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 143.59 acres of land described above.

Contract No. 6,046.

Issued Nov. 16, 1886, to M. L. Wicks, for the southeast quarter and the north half of section 29, township 7 south, range 2 west, S. B. M., 346.18 acres. Agreed purchase price, $865.45. Purchase price paid, $173.09; interest paid, $193.84. Deed issued ————————, to ————————. Present owner of contract, C. N. Richards. Patent No. 7. Issued Dec. 27, 1883, for 346.18 acres of land described above.

Contract No. 6,047.

Issued Nov. 16, 1886, to M. L. Wicks, for fraction of section 33, township 7 south, range 2 west, S. B. M., 15.22 acres. Agreed purchase price, $38.05. Purchase price paid, $38.05; interest paid, $10.65. Deed issued Nov. 18, 1891, to A. G. Gardner. Present owner of contract, ————————. Patent No. 7. Issued Dec. 27, 1883, for 15.22 acres of land described above.

Contract No. 9,923.

Issued Sept. 27, 1888, to W. Henry Wagner, for all of section 3, township 7 south, range 3 west, S. B. M., 548.80 acres. Agreed purchase price, $1,372. Purchase price paid, $274.40; interest paid, $153.66. Deed issued ——, to ————————. Present owner of contract, W. Henry Wagner. Patent No. 23. Issued Nov. 5, 1892, for 548.80 acres of land described above.

Contract No. 9,905.

Issued Sept. 18, 1888, to Uriah B. Wilson and Fred'k J. Chamberlin, for lot 1 of section 7, township 7 south, range 3 west, S. B. M., 30.88 acres. Agreed purchase price, $154.40. Purchase price paid, $30.88; interest paid, $51.90. Deed issued ————————, to ————————. Present owner of contract, Jennie A. Wilson and Fred'k J. Chamberlin. Patent No. 23. Issued Nov. 5, 1892, for 30.88 acres of land described above.

Contract No. 4,810.

Issued Sept. 7, 1885, to W. Henry Wagner, for the northwest quarter of section 11, township 7 south, range

3 west, S. B. M., 155.39 acres. Agreed purchase price, $116.54. Purchase price paid, $116.54; interest paid, $—. Deed issued ————, to ————. Present owner of contract, W. Henry Wagner. Patent No. 23. Issued Nov. 5, 1892, for 155.39 acres of land described above.

Contract No. 11,400.

Issued Sept. 27, 1895, to Joseph B. Kolb and Chas. H. Sims, for the northeast quarter of the northeast quarter, and lots 1, 2, and 3 of section 5, township 8 south, range 1 west, S. B. M., 95.37 acres. Agreed purchase price, $238.42. Purchase price paid, $47.68; interest paid, $13.35. Deed issued ————, to ————. Present owners of contract, Joseph B. Kolb and Chas. H. Sims. Patent No. 23. Issued Nov. 5, 1892, for 95.37 acres of land described above.

Contract No. 10,513.

Issued Oct. 10, 1890, to Banning Land Company, for all of section 33, township 1 south, range 1 east, S. B. M., 640 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $896. Quitclaim deed issued May 2, 1896, to Banning Land Company. Present owner of contract, ————. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 10,514.

Issued Oct. 10, 1890, to Banning Land Company, for all of section 35, township 1 south, range 1 east, S. B. M., 640 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $896. Quitclaim deed is-

sued May 2, 1896, to Banning Land Company. Present owner of contract, ————. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 11,347.

Issued Aug. 1, 1894, to J. E. Cowles, for the east half of section 13; the northwest quarter of the southwest quarter, and the north half of section 23; and the north half of the northeast quarter, and the north half of the northwest quarter of section 33, township 1 south, range 4 east, S. B. M., 840 acres. Agreed purchase price, $2,100. Purchase price paid, $420; interest paid, $234.20. Deed issued ————, to ————. Present owner of contract, J. E. Cowles. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 11,254.

Issued Feb. 15, 1893, to Lowell L. Rogers, for all of section 29, township 1 south, range 4 east, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $320; interest paid, $89.60. Deed issued ———, to ————. Present owner of contract, Lowell L. Rogers. Patent No. ———. Issued ————, for ——— acres of land described above.

Contract No. 10,119.

Issued June 29, 1889, to Cabazon Land and Water Co., for all of section 21, township 2 south, range 2 east, S. B. M., 640 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $———. Quitclaim deed issued July 23, 1889, to Cabazon Land and Water Co.

Present owner of contract, ——————. Patent No. ———. Issued ————, for —— acres of land described above.

Contract No. 4,575.

Issued May 4, 1885, to T. M. Parsons and Wellwood Murray, for the north half of section 1, township 3 south, range 1 east, S. B. M., 319.30 acres. Agreed purchase price, $798.25. Purchase price paid, $798.25; interest paid, $179.65. Deed issued May 24, 1889, to F. M. Parson and Wellwood Murray. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 319.30 acres of land described above.

Contract No. 3,883.

Issued Aug. 25, 1884, to C. W. Filkins, for the east half, the east half of the northwest quarter, the east half of the southwest quarter of section 3; and the south half of section 15, township 3 south, range 1 east, S. B. M., 798.20 acres. Agreed purchase price, $4,789.20. Purchase price paid, $4,789.20; interest paid, $———. Deed issued June 29, 1893, to Banning Land Company, for the east half of the east half of the southwest quarter of section 3; and the south half of section 15. Present owner of contract, Banning Land Company, for the east half of the northwest quarter of section 3. Patent No. 18. Issued Oct. 7, 1891, for 718.66 acres of land described above.

Contract No. 3,882.

Issued Aug. 25, 1884, to J. M. Gilman, for lot 1 of section 5, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $320. Purchase price paid, $320;

interest paid, $89.60. Deed issued May 17, 1892, to J. M. Gilman. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,884.

Issued Aug. 25, 1884, to J. H. Barbour, for lot 2 of the northeast quarter and lot 2 of the northwest quarter of section 5, township 3 south, range 1 east, S. B. M., 159.20 acres. Agreed purchase price, $1,273.60. Purchase price paid, $1,273.60; interest paid, $356.60. Deed issued May 11, 1894, to D. F. Gilman. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 159.20 acres of land described above.

Contract No. 3,886.

Issued Aug. 25, 1886, to G. W. Scott, for the southeast quarter of the northwest quarter, the east half of the southwest quarter, and the southwest quarter of the southwest quarter of section 5, township 3 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $1,120. Purchase price paid, $1,120; interest paid, $501.76. Deed issued Aug. 22, 1892, to G. W. Scott. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 794.

Issued March 16, 1880, to Wm. K. Dunlap, for the southwest quarter of the northwest quarter, and the northwest quarter of the southwest quarter of section 5, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $220. Purchase price paid, $220; interest

paid, $17.60. Deed issued March 7, 1881, to Wm. K. Dunlap. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,992.

Issued Dec. 29, 1883, to George W. Scott, for all of section 7, township 3 south, range 1 east, S. B. M., 647.22 acres. Agreed purchase price, $4,854.15. Purchase price paid, $4,854.15; interest paid, $1,350.83. Deed issued Dec. 18, 1888, to Geo. W. Scott. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 647.22 acres of land described above.

Contract No. 2,003.

Issued Dec. 23, 1881, to John C. Heazlitt, for the north half of the northeast quarter of section 9, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $220. Purchase price paid, $220; interest paid, $36.96. Deed issued Sept. 16, 1884, to Charles W. Filkins. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,003½.

Issued Dec. 23, 1881, to John C. Heazlitt, for the north half of the northwest quarter of section 9, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $220. Purchase price paid, $220; interest paid, $36.96. Deed issued Sept. 16, 1884, to Charles W. Filkins. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 798.

Issued March 22, 1880, to Gideon Scott, for the south half of the northeast quarter; the south half of the northwest quarter; the north half of the southeast quarter and the north half of the southwest quarter of section 9, township 3 south, range 1 east, S. B. M., 320 acres. Agreed purchase price, $1,000. Purchase price paid, $1,000; interest paid, $320. Deed issued March 25, 1884, to Gideon Scott. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 320 acres of land described above.

Contract No. 799.

Issued March 26, 1880, to John C. Hay, for the south half of the southeast quarter; the south half of the southwest quarter of section 9, township 3 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $560. Purchase price paid, $560. Interest paid, $201.70. Deed issued May 6, 1884, to John C. Hay. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 795.

Issued March 16, 1880, to Daniel A. Scott, for the west half of the northwest quarter of section 15, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $320. Purchase price paid, $320; interest paid, $97.45. Deed issued Jan. 9, 1884, to Daniel A. Scott. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 1,293.

Issued Oct. 6, 1881, to Daniel A. Scott, for the east half of the northwest quarter of section 15, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $320. Purchase price paid, $320; interest paid, $40.19. Deed issued Jan. 9, 1884, to Daniel A. Scott. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,825.

Issued Sept. 3, 1883, to William Thorpe, for the east half of the northeast quarter of section 15, township 3 south, range 1 east, S. B. M., 80 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $7.47. Deed issued Jan. 5, 1884, to William Thorpe. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 80 acres of land described above.

Contract No. 2,822.

Issued Aug. 21, 1883, to Gideon Scott, for the southwest quarter of the northeast quarter of section 15, township 3 south, range 1 east, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $4.15. Deed issued Jan. 9, 1884, to Gideon Scott. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 2,819.

Issued Aug. 13, 1883, to Gideon Scott, for the northwest half of the northeast quarter of section 15, township 3 south, range 1 east, S. B. M., 40 acres. Agreed purchase

price, $200. Purchase price paid, $200; interest paid, $4.35. Deed issued Jan. 9, 1884, to Gideon Scott. Present owner of contract, ————————. Patent No. 2. Issued April 4, 1879, for 40 acres of land described above.

Contract No. 2,993.

Issued Dec. 29, 1883, to Wellwood Murray and J. H. Barbour, for the north half and the southeast quarter of section 17, township 3 south, range 1 east, S. B. M., 480 acres. Agreed purchase price, $3,600. Purchase price paid, $3,600; interest paid, $1,008. Deed issued Dec. 17, 1888, to Thomas E. Fraser. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 480 acres of land described above.

Contract No. 3,119.

Issued Jan. 31, 1884, to Henry Cabot, for the southwest quarter of section 17, township 3 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $1,200. Purchase price paid, $1,200. Interest paid, $265.30. Deed issued Jan. 20, 1888, to Henry Cabot. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 3,035.

Issued Jan. 12, 1884, to S. B. Wright, for the northeast quarter of section 19, township 3 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $960. Purchase price paid, $960; interest paid, $268.80. Deed issued Jan. 18,1889, to Wellwood Murray and E. G. Grant. Present owner of contract, ————————. Patent No. 6. Issued Dec. 27, 1883, for 160 acres of land described above.

Contract No. 2,994.

Issued Dec. 29, 1883, to E. G. Carpenter and C. H. Ingelow, for the northwest quarter of section 21, township 3 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $800. Purchase price paid, $800; interest paid, $224. Deed issued Nov. 28, 1892, to C. Sweeters. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,245.

Issued Jan. 14, 1887, to George W. Spencer, for the west half of the northeast quarter of section 5, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued ————, to ————. Present owner of contract, George W. Spencer. Patent No. —. Issued ————, for ——— acres of land described above.

Contract No. 3,957.

Issued Sept. 27, 1884, to L. A. Pelton, for the northwest quarter of section 5, township 3 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $185.86. Deed issued ———, to ————. Present owner of contract, L. A. Pelton. Patent No. —. Issued ————, for —— acres of land described above.

Contract No. 3,869.

Issued Aug. 20, 1884, to T. E. Pope, for the east half of the southeast quarter of section 5, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200.

Purchase price paid, $200; interest paid, $94.08. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,870.

Issued Aug. 20, 1884, to T. E. Pope, for the west half of the southeast quarter of section 5, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $94.08. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,871.

Issued Aug. 20, 1884, to T. E. Pope, for the east half of the southwest quarter of section 5, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $94.08. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,872.

Issued Aug. 20, 1884, to T. E. Pope, for the west half of the southwest quarter of section 5, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $94.08. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,250.

Issued Jan. 14, 1887, to H. M. Russell, E. A. Cox and M. C. Brandt, for the north half of the northeast quarter of section 7, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56. Deed issued Feb. 13, 1893, to H. M. Russell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,251.

Issued Jan. 14, 1887, to H. M. Russell, E. A. Cox and M. C. Brandt, for the south half of the northeast quarter of section 7, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56. Deed issued Feb. 13, 1893, to H. M. Russell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,254.

Issued Jan. 14, 1887, to H. M. Russell, E. A. Cox and M. C. Brandt, for the north half of the southeast quarter of section 7, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56. Deed issued Feb. 13, 1893, to H. M. Russell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,255.

Issued Jan. 14, 1887, to H. M. Russell, E. A. Cox and M. C. Brandt, for the south half of the southeast quarter of

section 7, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $56. Deed issued Feb. 13, 1893, to H. M. Russell. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,237.

Issued Jan. 14, 1887, to George W. Spencer, for the north half of the northeast quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,238.

Issued Jan. 14, 1887, to George W. Spencer, for the south half of the northeast quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,239.

Issued Jan. 14, 1887, to George W. Spencer, for the north half of the northwest quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land

& Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,240.

Issued Jan. 14, 1887, to George W. Spencer, for the south half of the northwest quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,241.

Issued Jan. 14, 1887, to George W. Spencer, for the north half of the southeast quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,242.

Issued Jan. 14, 1887, to George W. Spencer, for the south half of the southeast quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,243.

Issued Jan. 14, 1887, to George W. Spencer, for the north half of the southwest quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,244.

Issued Jan. 14, 1887, to George W. Spencer, for the south half of the southwest quarter of section 15, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $67.20. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,873.

Issued Aug. 20, 1884, to T. E. Pope, for the northeast quarter of section 17, township 3 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $188.16. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,874.

Issued Aug. 20, 1884, to T. E. Pope, for the northwest quarter of section 17, township 3 south, range 2 east, S. B.

M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $188.16. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,875.

Issued Aug. 20, 1884, to T. E. Pope, for the southeast quarter of section 17, township 3 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $188.16. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,876.

Issued Aug. 20, 1884, to T. E. Pope, for the southwest quarter of section 17, township 3 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $188.16. Deed issued May 15, 1896, to Cabazon Land & Water Co. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,877.

Issued Aug. 20, 1884, to T. E. Pope, for the north half of the northwest quarter of section 21, township 3 south, range 2 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $94.08. Deed issued May 15, 1896, to Cabazon Land & Water Co.

Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 6,066.

Issued Nov. 20, 1886, to U. S. Hall, for the northwest quarter of section 23, township 3 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $134.40. Deed issued Nov. 14, 1893, to M. S. Hall. Present owner of contract, ———————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 2,790.

Issued May 26, 1883, to Gorgonio Vineyard Association, for the southwest quarter of the northwest quarter and the west half of the southwest quarter of section 21, and the northeast quarter of the northeast quarter of section 29, township 3 south, range 3 east, S. B. M., 160 acres. Agreed purchase price, $600. Purchase price paid, $600; interest paid, $——. Quitclaim deed issued July 10, 1883, to Gorgonio Vineyard Association. Present owner of contract, ————————. Patent No. —. Issued ———————, for ——— acres of land described above.

Contract No. 10,947.

Issued Jan. 12, 1892, to J. K. Basye and S. H. Lucas, for all of section 19, township 4 south, range 2 east, S. B. M., 649.02 acres. Agreed purchase price, $2,271.57. Purchase price paid, $454.31; interest paid, $508.80. Deed issued ————————, to ————————. Present owner of contract, George Reis. Patent No. 25. Issued Aug. 15, 1894, for 649.02 acres of land described above.

Contract No. 10,176.

Issued Oct. 3, 1889, to San Jacinto Lumber Co., for all of section 23, township 4 south, range 2 east, S. B. M., 640 acres. Agreed purchase price, $3,200. Purchase price paid, $3,200; interest paid, $689.42. Deed issued Sept. 6, 1893, to State Loan & Trust Company. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 9,943.

Issued Oct. 22, 1888, to A. D. McCormick, M. G. Stone and G. D. Compton, for all of section 35, township 4 south, range 2 east, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $845.43; interest paid, $662.17. Deed issued ————, to ————. Present owners of contract, W. P. Lett, M. G. Stone and G. D. Compton. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 8,065.

Issued Aug. 20, 1887, to J. G. McCallum, for the northeast quarter of the southeast quarter of section 3, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $4.50. Deed issued July 16, 1888, to J. G. McCallum. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 8,066.

Issued Aug. 20, 1887, to J. G. McCallum, for the northwest quarter of the southeast quarter of section 3,

township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $4.50. Deed issued July 16, 1888, to J. G. McCallum. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 8,067.

Issued Aug. 20, 1887, to J. G. McCallum, for the southeast quarter of the southeast quarter of section 3, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $4.50. Deed issued July 16, 1888, to J. G. McCallum. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 8,068.

Issued Aug. 20, 1887, to J. G. McCallum, for the southwest quarter of the southeast quarter of section 3, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $4.50. Deed issued July 16, 1888, to J. G. McCallum. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 6,181.

Issued Dec. 29, 1886, to George F. Dutton, for the north half of the northwest quarter; the southeast quarter of the northwest quarter; the northeast quarter of the southeast quarter and the northeast quarter of section 11, township 4 south, range 4 east, S. B. M., 320 acres. Agreed

purchase price, $800. Purchase price paid, $800; interest paid, $226.10. Deed issued Jan. 26, 1892, to A. J. Twogood. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 4,833.

Issued Sept. 14, 1885, to Margaret Chapin, for the southwest quarter of the northwest quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $33.50. Deed issued March 10, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,842.

Issued Sept. 17, 1885, to Margaret E. Chapin, for the southeast quarter of the southeast quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $33.45. Deed issued March 10, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,843.

Issued Sept. 17, 1885, to Mary E. Chapin, for the northwest quarter of the southeast quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $33.45. Deed issued March 10, 1892, to J. G. McCal-

lum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,844.

Issued Sept. 17, 1885, to Mary E. Chapin, for the southwest quarter of the southeast quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $33.45. Deed issued March 10, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,829.

Issued Sept. 14, 1885, to Margaret Chapin, for the northwest quarter of the southwest quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $29.45. Deed issued April 25, 1892, to Mrs. Ella Brooks. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,830.

Issued Sept. 14, 1885, to Margaret Chapin, for the southwest quarter of the southwest quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $29.90. Deed issued May 12, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,831.

Issued Sept. 14, 1885, to Margaret Chapin, for the northeast quarter of the southwest quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $21. Deed issued July 10, 1890, to H. F. Wheaton. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 4,832.

Issued Sept. 14, 1885, to Margaret Chapin, for the southeast quarter of the southwest quarter of section 11, township 4 south, range 4 east, S. B. M., 40 acres. Agreed purchase price, $100. Purchase price paid, $100; interest paid, $29.45. Deed issued April 25, 1892, to Mrs. Ella Brooks. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 40 acres of land described above.

Contract No. 3,749.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the northeast quarter of section 13, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ———— ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,750.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the northwest quarter of section 13,

township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,751.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the southeast quarter of section 13, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,752.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the southwest quarter of section 13, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,753.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the northeast quarter of section 15, township 4 south, range 4 east, S. B. M., 160 acres.

Agreed purchase price, $400. Purchase price paid, $400; interest paid, $77.16. Quitclaim deed issued Dec. 12, 1887, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,754.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the southeast quarter of section 15, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $77.16. Quitclaim deed issued Dec. 12, 1887, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,755.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the northeast quarter of section 23, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,756.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the northwest quarter of section 23, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400;

interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,757.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the southeast quarter of section 23, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $97.45. Quitclaim deed issued Nov. 7, 1888, to J. G. McCallum. Present owner of contract, ——— ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,758.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the southwest quarter of section 23, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $112. Quitclaim deed issued Jan. 25, 1889, to Mrs. Ella Brooks. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,759.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the north half of the northeast quarter of section 25, township 4 south, range 4 east, S. B. M., 80 acres. Agreed purchase price, $200. Purchase price paid, $200; interest paid, $65.65. Deed issued ————,

to ————————. Present owner of contract, Henry C. Campbell. Patent No. 18. Issued Oct. 7, 1891, for 80 acres of land described above.

Contract No. 3,760.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the northwest quarter of section 25, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $131.30. Deed issued ————————, to ————————. Present owner of contract, Henry C. Campbell. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,761.

Issued June 26, 1884, to W. E. Van Slyke and W. R. Porter, for the southwest quarter of section 25, township 4 south, range 4 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $131.30. Deed issued ————————, to ————————. Present owner of contract, Henry C. Campbell. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 3,901.

Issued Sept. 5, 1884, to J. G. McCallum, for all of section 35, township 4 south, range 4 east, S. B. M., 640 acres. Agreed purchase price, $1,600. Purchase price paid, $1,600; interest paid, $928.35. Deed issued Jan. 28, 1895, to Elizabeth W. Barney. Present owner of contract, ———— ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 5,957.

Issued Oct. 5, 1886, to J. G. McCallum, for the northeast quarter of section 19, township 4 south, range 5 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $110.32. Deed issued March 10, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,958.

Issued Oct. 5, 1886, to J. G. McCallum, for the northwest quarter of section 19, township 4 south, range 5 east, S. B. M., 166.77 acres. Agreed purchase price, $416.92. Purchase price paid, $416.92; interest paid, $114.98. Deed issued March 10, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 166.77 acres of land described above.

Contract No. 5,959.

Issued Oct. 5, 1886, to J. G. McCallum, for the southeast quarter of section 19, township 4 south, range 5 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $400; interest paid, $110.32. Deed issued March 10, 1892, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,960.

Issued Oct. 5, 1886, to J. G. McCallum, for the southwest quarter of section 19, township 4 south, range 5 east,

S. B. M., 167.07 acres. Agreed purchase price, $417.67. Purchase price paid, $417.67; interest paid, $84.37. Quitclaim deed issued April 8, 1890, to J. G. McCallum. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 167.07 acres of land described above.

Contract No. 5,961.

Issued Oct. 5, 1886, to Orson C. Miller, for the northeast quarter of section 29, township 4 south, range 5 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $225; interest paid, $200.55. Deed issued ———————, to ————————. Present owner of contract, Orson C. Miller. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,962.

Issued Oct. 5, 1886, to Orson C. Miller, for the northwest quarter of section 29, township 4 south, range 5 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $225; interest paid, $200.55. Deed issued ———————, to ————————. Present owner of contract, Orson C. Miller. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,963.

Issued Oct. 5, 1886, to Orson C. Miller, for the southeast quarter of section 29, township 4 south, range 5 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $225; interest paid, $200.55. Deed issued ———————, to ————————. Present owner of contract, Orson C. Miller. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,964.

Issued Oct. 15, 1886, to Orson C. Miller, for the southwest quarter of section 29, township 4 south, range 5 east, S. B. M., 160 acres. Agreed purchase price, $400. Purchase price paid, $225; interest paid, $200.55. Deed issued ————, to ————. Present owner of contract, Orson C. Miller. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,541.

Issued Oct. 20, 1887, to J. G. McCallum, for the northeast quarter of the northeast quarter of section 33, township 4 south, range 5 east, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $11.20. Deed issued ————, to ————. Present owner of contract, J. G. McCallum. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 8,542.

Issued Oct. 20, 1887, to J. G. McCallum, for the northwest quarter of the northeast quarter of section 33, township 4 south, range 5 east, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $11.20. Deed issued ————, to ————. Present owner of contract, J. G. McCallum. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 8,543.

Issued Oct. 20, 1887, to J. G. McCallum, for the southeast quarter of the northeast quarter of section 33, town-

ship 4 south, range 5 east, S. B. M., 40 acres. Agreed purchase price, $200. Purchase price paid, $40; interest paid, $11.20. Deed issued ————, to ————. Present owner of contract, J. G. McCallum. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 8,544.

Issued Oct. 20, 1887, to J. G. McCallum, for the southwest quarter of the northeast quarter of section 33, township 4 south, range 5 east, S. B. M., 40 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $11.20. Deed issued ————, to————. Present owner of contract, J. G. McCallum. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 8,545.

Issued Oct. 20, 1887, to J. G. McCallum, for the northeast quarter of the northwest quarter of section 33, township 4 south, range 5 east, S. B. M., 40 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $11.20. Deed issued ————, to ————. Present owner of contract, J. G. McCallum. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 8,546.

Issued Oct. 20, 1887, to J. G. McCallum, for the southeast quarter of the northwest quarter of section 33, township 4 south, range 5 east, S. B. M., 40 acres. Agreed purchase price, $200.00. Purchase price paid, $40.00; interest paid, $11.20. Deed issued ————, to ————.

Present owner of contract, J. G. McCallum. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 9,624.

Issued May 24, 1888, to Nathan Silkwood, for the northwest quarter of section 13, townsihip 5 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $1,600.00 Purchase price paid, $320.00; interest paid, $537.60. Deed issued ————, to ————. Present owner of contract, Wm. B. Webster. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 9,630.

Issued May 24, 1888, to Fairview Land & Water Co., for the east half of section 13, township 5 south, range 1 east, S. B. M., 320 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $627.20. Deed issued ————, to ————. Present owner of contract, San Jacinto & Pleasant Valley Irrigation District. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 9,622.

Issued May 24, 1888, to A. Scherman, for the northeast quarter of the northeast quarter of section 15, township 5 south, range 1 east, S. B. M., 40 acres. Agreed purchase price, $1,200.00. Purchase price paid, $240.00; interest paid, $604.80. Deed issued ————, to ————. Present owner of contract, A. Saunders. Patent No. 25. Issued Aug. 15, 1894, for 40 acres of land described above.

Contract No. 9,626.

Issued May 24, 1888, to Howard E. Martin, for the south half of section 15, township 5 south, range 1 east, S. B. M., 320 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $716.80. Deed issued ————, to ————. Present owner of contract, San Jacinto & Pleasant Valley Irrigation District. Patent No. 18. Issued Oct. 7, 1891, for 280 acres of land described above.

Contract No. 8,361.

Issued Sept. 17, 1887, to Hemet Land Company, for all of section 19, township 5 south, range 1 east, S. B. M., 641.26 acres. Agreed purchase price, $5,848.49. Purchase price paid, $5,848.79; interest paid, $1,828.58. Deed issued April 22, 1893, to Hemet Land Company. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 641.26 acres of land described above.

Contract No. 9,628.

Issued May 24, 1888, to John C. Wilms, for the west half of the southwest quarter of the southwest quarter of section 21, township 5 south, range 1 east, S. B. M., 20 acres. Agreed purchase price, $320.00. Purchase price paid, $320.00; interest paid, $———. Deed issued ————, to ———. Present owner of contract, John C. Wilms. Patent No. 18. Issued Oct. 7, 1891, for 20 acres of land described above.

Contract No. 9,625.

Issued May 24, 1888, to Samuel H. Meeks, for all of section 27, township 5 south, range 1 east, S. B. M., 640 acres.

Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $268.80. Deed issued ————, to ————. Present owner of contract, Samuel H. Meeks. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 10,298.

Issued April 28, 1890, to Sarah E. Hannahs, for the east half of section 1, township 5 south, range 2 east, S. B. M., 320.40 acres. Agreed purchase price, $801.00. Purchase price paid, $245.59; interest paid, $263.86. Deed issued ————, to ————. Present owner of contract, Sarah E. Hannahs. Patent No. 25. Issued Aug. 15, 1894, for 320.40 acres of land described above.

Contract No. 10,299.

Issued April 28, 1890, to Sarah E. Hannahs, for the southwest quarter of section 1, township 5 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $136.05; interest paid, $130.95. Deed issued ————, to ————. Present owner of contract, Sarah E. Hannahs. Patent No. 2. Issued April 4, 1879, for 160 acres of land described above.

Contract No. 3,380.

Issued Mar. 29, 1884, to A. Saunders, for the northwest quarter of section 1, township 5 south, range 2 east, S. B. M., 161.20 acres. Agreed purchase price, $886.60. Purchase price paid, $886.60; interest paid, $248.25. Deed issued Apr. 19, 1889, to A. Saunders. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 161.20 acres of land described above.

Contract No. 3,381.

Issued May 29, 1884, to A. Saunders, for the north half of section 11, township 5 south, range 2 east, S. B. M., 320 acres. Agreed purchase price, $1,120. Purchase price paid, $1,120; interest paid, $313.60. Deed issued Apr. 19, 1889, to A. Saunders. Present owner of contract, ————. Patent No. 2. Issued April 4, 1879, for 320 acres of land described above.

Contract No. 9,771.

Issued July 16, 1888, to A. W. Burns and Chas. Thomas, for the northeast quarter and the south half of section 13, township 5 south, range 2 east, S. B. M., 480 acres. Agreed purchase price, $4,800. Purchase price paid, $960.00; interest paid, $268.80. Deed issued ———— to ————. Present owner of contract, A. W. Burris and Chas. Thomas. Patent No. 2. Issued Apr. 4, 1879, for 480 acres of land described above.

Contract No. 9,938.

Issued Oct. 15, 1888, to Fairview Land & Water Co., for all of section 17, township 5 south, range 2 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $320.00; interest paid, $627.20. Deed issued ———— to ————. Present owner of contract, San Jacinto and Pleasant Valley Irrigation District. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 9,939.

Issued Oct. 15, 1888, to Fairview Land & Water Co., for the northeast quarter of section 19, township 5 south, range 2 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $156.80. Deed issued ————, to ————. Present owner of contract, San Jacinto & Pleasant Valley Irrigation District. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 9,181.

Issued Jan. 19, 1888, to H. M. Johnston, for all of section 25, township 5 south, range 2 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $202.10. Deed issued Oct. 19, 1891, to H. M. Johnston for the southeast quarter of the northwest quarter; east half of the southwest quarter, and east half. Present owner of contract, H. M. Johnston, for the northeast quarter of the northwest quarter; west half of the northwest quarter, and west half of the southwest quarter. Patent No. 12. Issued Jan. 29, 1891, for 440 acres of land described above. Also patent No. 33. Issued June 22, 1896, for 200 acres of land described above.

Contract No. 10,048.

Issued March 11, 1889, to A. Scherman, for all of section 5, township 5 south, range 3 east, S. B. M., 633.02 acres. Agreed purchase price, $2,437.12. Purchase price paid, $2,437.12; interest paid, $807.45. Deed issued ————, to ————. Present owner of contract, A. Scherman.

Patent No. 18. Issued Oct. 7, 1891, for 633.02 acres of land described above.

Contract No. 10,721.

Issued April 17, 1891, to Calvin S. Hemstreet, for the southeast quarter of section 7, township 5 south, range 3 east, S. B. M., 160 acres. Agreed purchase price, $1,120.00. Purchase price paid, $224.00; interest paid, $62.72. Deed issued ————, to ————. Present owner of contract, Calvin S. Hemstreet. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 10,515.

Issued Oct. 10, 1890, to Sarah E. Hannahs, for the southwest quarter of section 7, township 5 south, range 3 east, S. B. M., 160.77 acres. Agreed purchase price, $1,205.77. Purchase price paid, $241.15; interest paid, $202.56. Deed issued ————, to ————. Present owner of contract, Sarah E. Hannahs. Patent No. 25. Issued Aug. 15, 1894, for 160 acres of land described above.

Contract No. 7,762.

Issued July 11, 1887, to H. M. Johnston, for the southwest quarter of section 15, all of section 19, west half of section 27, all of sections 29, 31 and 33, township 5 south, range 3 east, S. B. M., 3,048.76 acres. Agreed purchase price, $4,821.90. Purchase price paid, $4,821.90; interest paid, $750.06. Deed issued Oct. 19, 1891, to H. M. Johnston. Present owner of contract, ————. Patent No. 12. Issued Jan. 29, 1891, for 3,048.76 acres of land described above.

Contract No. 7,763.

Issued July 11, 1887, to M. M. Orstott, for all of section 21, township 5 south, range 3 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $446.00. Deed issued July 11, 1892, to M. M. Orstott. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 9,405.

Issued Feb. 27, 1888, to Granville D. Abbott, for the northeast quarter of section 9, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $123.20. Deed issued March 9, 1893, to Granville D. Abbott and Granville S. Abbott. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,646.

Issued Oct. 27, 1887, to O. S. Putnam and E. E. Gilkison, for the southwest quarter of section 13, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $126.28. Deed issued March 17, 1892, to J. H. Phillip. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,580.

Issued June 15, 1887, to A. N. Towne, for the northeast quarter of section 15, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Pur-

chase price paid, $400.00; interest paid, $———. Deed issued March 18, 1892, to A. N. Towne. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,581.

Issued June 15, 1887, to A. N. Towne, for the northwest quarter of section 15, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $———. Deed issued March 18, 1892, to A. N. Towne. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,582.

Issued June 15, 1887, to A. N. Towne, for the southeast quarter of section 15, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $———. Deed issued March 18, 1892, to A. N. Towne. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 7,583.

Issued June 15, 1887, to A. N. Towne, for the southwest quarter of section 15, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $———. Deed issued March 18, 1892, to A. N. Towne. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,652.

Issued June 8, 1885, to P. J. O'Regan, for the northeast quarter of section 23, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $20.51. Deed issued April 20, 1892, to P. J. O'Regan. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 4,653.

Issued June 8, 1885, to A. G. Tingman, for the southeast quarter of section 23, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $52.50. Deed issued March 26, 1892, to A. G. Tingman and Geo. W. Durbrow. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,752.

Issued July, 8, 1886, to Chas. N. Shaw and Chas. E. Green, for the northwest quarter of section 23, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $134.40. Deed issued July 15, 1892, to Indio Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,753.

Issued July 8, 1886, to Chas. N. Shaw and Chas. E. Green, for the southwest quarter of section 23, township

5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $134.40. Deed issued July 15, 1892, to Indio Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,988.

Issued Oct. 20, 1886, to Chas. N. Shaw, for the north half of section 25, township 5 south, range 7 east, S. B. M., 320 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $348.56. Deed issued Aug. 3, 1894, to Indio Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 5,989.

Issued Oct. 20, 1886, to Chas. E. Green, for the south half of section 25, township 5 south, range 7 east, S. B. M., 320 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $348.57. Deed issued Aug. 3, 1894, to Indio Land & Water Co. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 320 acres of land described above.

Contract No. 6,194.

Issued Dec. 30, 1886, to Alban N. Towne, for the northeast quarter of section 35, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $124.15. Deed issued July 15, 1892, to Wm. G. Lanigan. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,196.

Issued Dec. 30, 1886, to Alban N. Towne, for the southeast quarter of section 35, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $154.94. Deed issued Dec. 6, 1893, to Wm. G. Lanigan. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 6,197.

Issued Dec. 30, 1886, to A. N. Towne, for the southwest quarter of section 35, township 5 south, range 7 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $130.02. Deed issued Nov. 14, 1892, to Wm. G. Lanigan. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 11,264.

Issued March 9, 1893, to Nelson A. Miles, for the west half of the southeast quarter, and the west half of section 29, township 5 south, range 8 east, S. B. M., 400 acres. Agreed purchase price, $2,000.00. Purchase price paid, $2,000.00; interest paid, $———. Deed issued March 14, 1893, to Nelson A. Miles. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 400 acres of land described above.

Contract No. 6,215.

Issued Jan. 4, 1887, to John F. Foster, for the northeast quarter of section 31, township 5 south, range 8 east,

S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $163.32. Deed issued April 24, 1894, to J. F. Foster. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 5,877.

Issued Aug. 26, 1886, to Harry Durbrow, for the west half of section 31, township 5 south, range 8 east, S. B. M., 320.48 acres. Agreed purchase price, $801.20. Purchase price paid, $801.20; interest paid, $134.58. Deed issued May 31, 1892, to Harriet Durbrow. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 320.48 acres of land described above.

Contract No. 9,764.

Issued July 5, 1888, to C. A. Hooper, for all of section 7, township 6 south, range 1 east, S. B. M., 640.32 acres. Agreed purchase price, $1,920.96. Purchase price paid, $1,920.96; interest paid, $658.26. Deed issued Feb. 6, 1895, to Ida. G. Hooper. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 640.32 acres of land described above.

Contract No. 5,412.

Issued March 4, 1886, to H. M. Johnston and Chas. Thomas, for all of section 3, northeast quarter of section 5, all of section 7, 9, 15 and 23, west half of the southwest quarter of section 11, west half of section 25, and the northeast quarter of section 35, township 6 south, range 3 east, S. B. M., 3,924 acres. Agreed purchase

price, $9,810.00. Purchase price paid, $9,810.00; interest paid, $396.76. Deed issued Oct. 28, 1891, to H. M. Johnston and Chas. Thomas, for all but section 7. Present owner of contract, H. M. Johnston and Chas. Thomas for section 7. Patent No. 12. Issued Jan. 29, 1891, for 2,644 acres of land described above. Also patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 9,861.

Issued Aug. 20, 1888, to H. M. Johnston, for all of section 1, township 6 south, range 3 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $149.60. Deed issued ———, to ———. Present owner of contract, H. M. Johnston. Patent No. ——. Issued ———, for ——— acres of land described above.

Contract No. 6,198.

Issued Dec. 30, 1886, to A. N. Towne, for all of section 5, township 6 south, range 8 east, S. B. M., 643.58 acres. Agreed purchase price, $1,608.95. Purchase price paid, $1,608.95; interest paid, $92.37. Quitclaim deed issued Jan. 12, 1888, to A. N. Towne, I. L. Requa. Present owner of contract, ———. Patent No. 18. Issued Oct. 7, 1891, for 643.58 acres of land described above.

Contract No. 6,199.

Issued Dec. 30, 1886, to A. N. Towne, for all of section 7, township 6 south, range 8 east, S. B. M., 616.44 acres. Agreed purchase price, $1,541.10. Purchase price paid, $1,541.10; interest paid, $88.45. Quitclaim deed issued

Jan. 12, 1888, to A. N. Towne and I. L. Requa. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 616.44 acres of land described above.

Contract No. 6,200.

Issued Dec. 30, 1886, to A. N. Towne, for all of section 9, township 6 south, range 8 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $91.82. Quitclaim deed issued Jan. 12, 1888, to A. N. Towne and I. L. Requa. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 6,201.

Issued Dec. 30, 1886, to A. N. Towne, for all of section 17, township 6 south, range 8 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $91.82. Quitclaim deed issued Jan. 12, 1888, to A. N. Towne and I. L. Requa. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 6,202.

Issued Dec. 30, 1886, to A. N. Towne, for all of section 21, township 6 south, range 8 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $91.82. Quitclaim deed issued Jan. 12, 1888, to A. N. Towne and I. L. Requa. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 640 acres of land described above.

Contract No. 7,861.

Issued July 25, 1887, to Mrs. Clara T. Clark, for the southeast quarter of section 27, township 6 south, range 8 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $6.25. Deed issued Sept. 24, 1894, to Mrs. Clara Taylor Clark. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 9,978.

Issued Nov. 22, 1888, to Quitman Reed, for the north half, southwest quarter, southwest quarter of the southeast quarter of section 1, township 7 south, range 1 east, S. B. M., 520.16 acres Agreed purchase price, $780.24. Purchase price paid, $156.05; interest paid, $349.52. Deed issued ————, to ————. Present owner of contract, Quitman Reed. Patent No. 23. Issued Nov. 5, 1892, for 480.15 acres of land described above.

Contract No. 4,819.

Issued Sept. 10, 1885, to Andrew Bladen, for lots 3, 6, 7 and 8 of section 7, township 7 south, range 1 east, S. B. M., 174.41 acres. Deed issued Sept. 28, 1885, to Andrew Bladen. Present owner of contract, ————. Patent No. ——. Issued ————, for ——— acres of land described above.

Contract No. 9,979.

Issued Nov. 22, 1888, to Quitman Reed, for all of section 17, township 7 south, range 1 east, S. B. M., 640 acres. Agreed purchase price, $3,200.00. Purchase price paid,

$640.00; interest paid, $1,433.60. Deed issued ————, to ————. Present owner of contract, Quitman Reed. Patent No. 23. Issued Nov. 5, 1892, for 640 acres of land described above.

Contract No. 11,108.

Issued March 12, 1892, to Richard Derby, for the northeast quarter of section 19, township 7 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 11,109.

Issued March 12, 1892, to Richard Derby, for the northwest quarter of section 19, township 7 south, range 1 east, S. B. M., 164.48 acres. Agreed purchase price, $411.20. Purchase price paid, $411.20; interest paid, $89.22. Deed issued Jan. 29, 1896, to Richard Derby. Present owner of contract, ————. Patent No. 23, Issued Nov. 5, 1892, for 164.48 acres of land described above.

Contract No. 11,110.

Issued March 12, 1892, to Richard Derby, for the southeast quarter of section 19, township 7 south, range 1 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $80.00; interest paid, $22.40. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 11,111.

Issued March 12, 1892, to Richard Derby, for the southwest quarter of section 19, township 7 south, range 1 east, S. B. M., 165.44 acres. Agreed purchase price, $413.60. Purchase price paid, $82.72; interest paid, $23.16. Deed issued ————, to ————. Present owner of contract, Richard Derby. Patent No. 23. Issued Nov. 5, 1892, for 165.44 acres of land described above.

Contract No. 6,305.

Issued Feb. 4, 1887, to United States of America, for all of section 23, township 7 south, range 2 east, S. B. M., 640 acres. Agreed purchase price, $1.00. Purchase price paid, $1.00; interest paid, $———. Deed issued Feb. 4, 1887, to United States of America. Present owner of contract, ————. Patent No. ——. Issued ———, for ———acres of land described above.

Contract No. 10,215.

Issued Nov. 21, 1889, to Jesse Parks and Frances E. Parks, for the northeast quarter of the southwest quarter, west half of the southwest quarter, and the southeast quarter, and north half of section 29, township 7 south, range 2 east, S. B. M., 600 acres. Agreed purchase price, $3,000.00. Purchase price paid, $3,000.00; interest paid, $127.75. Deed issued ————, to ————. Present owner of contract, Jesse Parks and Frances E. Parks. Patent No. 23. Issued Nov. 5, 1892, for 560 acres of land described above.

Contract No. 10,216.

Issued Nov. 21, 1889, to Isaac Parks, for all of section 31, township 7 south, range 2 east, S. B. M., 654.92 acres. Agreed purchase price, $1,637.30. Purchase price paid, $1,637.30; interest paid, $82.61. Deed issued Oct. 12, 1893, to Isaac Parks, Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 654.92 acres of land described above.

Contract No. 10,183.

Issued Oct. 14, 1889, to James Hamilton, for the northwest quarter of section 13, township 7 south, range 3 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $67.90. Deed issued Aug. 21, 1893, to James Hamilton. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 10,184.

Issued Oct. 14, 1889, to James Hamilton, for the southeast quarter of section 13, township 7 south, range 3 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Purchase price paid, $400.00; interest paid, $67.90. Deed issued Aug. 21, 1893, to James Hamilton. Present owner of contract, ————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 10,185.

Issued Oct. 14, 1889, to James Hamilton, for the southwest quarter of section 13, township 7 south, range 3 east, S. B. M., 160 acres. Agreed purchase price, $400.00. Pur-

chase price paid, $400.00; interest paid, $67.90. Deed issued Aug. 21, 1893, to James Hamilton. Present owner of contract, ————————. Patent No. 23. Issued Nov. 5, 1892, for 160 acres of land described above.

Contract No. 8,061.

Issued Aug. 20, 1887, to Arthur A. Smith, for the northeast quarter of section 1, township 7 south, range 8 east, S. B. M., 160.12 acres. Agreed purchase price, $800.60. Purchase price paid, $800.60; interest paid, $224.15. Deed issued Aug. 22, 1892, to Arthur A. Smith. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160.12 acres of land described above.

Contract No. 8,062.

Issued Aug. 20, 1887, to Arthur A. Smith, for the northwast quarter of section 1, township 7 south, range 8 east, S. B. M., 160.36 acres. Agreed purchase price, $801.80. Purchase price paid, $801.80; interest paid, $224.50. Deed issued Aug. 22, 1892, to Arthur A. Smith. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160.36 acres of land described above.

Contract No. 8,063.

Issued Aug. 20, 1887, to Arthur A. Smith, for the southeast quarter of section 1, township 7 south, range 8 east, S. B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $224.00. Deed issued Aug. 22, 1892, to Arthur A. Smith. Present owner of contract, ————————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 8,064.

Issued Aug. 20, 1887, to Arthur A. Smith, for the southwest quarter of section 1, township 7 south, range 8 east, S B. M., 160 acres. Agreed purchase price, $800.00. Purchase price paid, $800.00; interest paid, $224.00. Deed issued Aug. 22, 1892, to Arthur A. Smith. Present owner of contract, ————. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 10,795.

Issued Aug. 7, 1891, to Joel B. Reed, for the east half of section 9, township 8 south, range 1 east, S. B. M., 320 acres. Agreed purchase price, $800.00. Purchase price paid, $160.00; interest paid, $89.60. Deed issued ———— ————, to ————. Present owner of contract, Joel B. Reed. Patent No. 23. Issued Nov. 5, 1892, for 320 acres of land described above.

Contract No. 4,629.

Issued May 20, 1885, to New Liverpool Salt Company, for all of section 11, township 8 south, range 1 east, S. B. M., 640 acres. Agreed purchase price, $1,600.00. Purchase price paid, $1,600.00; interest paid, $448.00. Deed issued ————, to ————. Present owner of contract, New Liverpool Salt Company. Patent No. 18. Issued Oct. 7, 1891, for 160 acres of land described above.

Contract No. 785.

Issued Feb. 17, 1879, to Walter C. Childs, for the south half of section 19, township 16 south, range 22 east, S. B. M., 320.40 acres. Agreed purchase price, $961.20.

Purchase price paid, $961.20; interest paid, $394.50. Deed issued ————————, to ————————. Present owner of contract, Walter C. Childs. Patent No. ———. Issued ——— ———, for ——— acres of land described above.

Contract No. 11,322.

Issued Dec. 8, 1893, to Colorado River Irrigation Company, for all of such lands as are bounded on the south by the International line, separating California from Mexico, on the north by the Railroad Station at Indio, on the east and west by the east and west branches of the Canals of the Colorado River Irrigation Company. Acres, 500,000, more or less. Agreed purchase price, $1,250,000, more or less. Purchase price paid, $———; interest paid, $———. Deed issued ————————, to ————————. Present owner of contract, Colorado River Irrigation Company. Patent No. 18. Issued Oct. 7, 1891, for 1,520.95 acres of land described above. Patent No. 27. Issued Nov. 28, 1894, for 3,842.58 acres of land described above.

[Endorsed]: Filed July 23, 1896. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the third day of August, in the year of our Lord, one thousand eight hundred and ninety-six. Present: The Honorable OLIN WELLBORN, District Judge.

UNITED STATES
vs.
SOUTHERN PACIFIC RAILROAD CO. et al.
} Consolidated Nos. 587, 675, and 662.

Order Dismissing Bill of Complaint as to Certain Lands.

On this third day of August, A. D. 1896, at a term of said court and in open court, on motion of Joseph H. Call, Esq., special assistant United States attorney, it is hereby ordered that the bill of complaint in the above-entitled suit be, and the same is hereby dismissed without prejudice as to the following described lands, to wit:

Those lands embraced and sued for in the case of United States v. Southern Pacific Railroad Company, No. 600, on the docket of this Court and being those lands within the thirty mile limits of the located route of the Atlantic & Pacific Railroad Company, as shown by the maps filed by said company in the interior department, and copies of which are on file in said case, No. 600, and

a part of this record of this Court; also, as to those lands embraced within the three reservations for the Mission Indians and the reservation for the Yuma Indians, established by proclamations and orders of the President of the United States and secretary of the interior.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order, made and entered by said Court, August 3, 1896, in the cause entitled United States vs. Southern Pacific Railroad Co. et al., consolidated Nos. 587, 675 and 662, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675 consolidated. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order dismissing bill of complaint as to certain lands. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the third day of August, in the year of our Lord, one thousand eight hundred and ninety-six. Present: The Honorable OLIN WELLBORN, District Judge.

UNITED STATES OF AMERICA,
Complainants.
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
} Consolidated Nos. 587, 675, and 662.

Order Substituting Homer S. King, Trustee, as Party Defendant.

Now comes Joseph H. Call, Esq., special assistant United States attorney, of counsel for complainants in said cause, and suggests to the Court the death of Gerrit L. Lansing, one of the defendants in said cause, whereupon, on motion of said Joseph H. Call, Esq., of counsel as aforesaid, it is ordered that Homer S. King, trustee, be and hereby is substituted as party defendant in the place and stead of Gerrit L. Lansing, trustee, deceased.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true and cor-

rect copy of an original order, made and entered by said Court, August 3d, 1896, in the cause entitled United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, consolidated Nos. 587, 675, and 662, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675 consolidated. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order substituting Homer S. King, trustee, as party defendant. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the August term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the thirty-first day of August, in the year of our Lord, one thousand eight hundred and ninety-six. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
} Consolidated No. 675.

Order that Answer of Other Defendants be Treated as Answer of Homer S. King, Trustee.

Joseph H. Call, Esq., special assistant United States attorney, present for the complainants. William Singer, Jr., Esq., present for the defendants. On motion of Wm. Singer, Jr., Esq., of counsel as aforesaid, and by consent of Joseph H. Call, Esq., of counsel as aforesaid, it is ordered that the answer of the other defendants on file herein be considered and treated as the answer of Homer S. King, trustee, the same as if he had been named as a defendant thereto.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true and correct copy of an original order, made and entered by said Court, August 31, 1896, in the cause, entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 675, consolidated, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675 Consolidated. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order that answer of other defendants be treated as the answer of Homer S. King, trustee. Filed Aug. 24, 1899. Wm. M. Van Dyke, Clerk.

In the United States Circuit Court, Southern District of California, Ninth Circuit.

UNITED STATES OF AMERICA, Complainants, vs. SOUTHERN PACIFIC RAILROAD COMPANY and Others, Defendants.	Consolidated Nos. 675, 587, and 662.

Replication of the United States to the Answer of Defendants.

This replicant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that he will aver and prove his said bill to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this replicant without this, that any other matter or thing whatsoever in the said answer contained, material, or effectual in the law to be replied unto, confessed, and avoided, traversed or denied, is true; all which matters and things this replicant is, and will be, ready to aver and prove as this Honorable Court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

JOSEPH H. CALL,

Special Asst. U. S. Atty. and of Counsel for Complainant.

[Endorsed]: No. 675. In the United States Circuit Court, Southern District of California. United States of America, Complainant, vs. Southern Pacific Railroad Co. et al., Defendants. Due service hereof admitted by copy, this , 189 , solicitor for said defendant. Filed September 7, 1896. Wm. M. Van Dyke, Clerk. Joseph H. Call, Special Asst. U. S. Atty.

At a stated term, to wit, the January term, A. D. 1897, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the twenty-eighth day of June, in the year of our Lord, one thousand eight hundred and ninety-seven. Present, The Honorable ERSKINE M. ROSS, Circuit Judge; the Honorable OLIN WELLBORN, District Judge.

THE UNITED STATES OF AMERICA, Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY, Defendants.

Nos. 675, 587 and 662 consolidated.

Order Dismissing Bill of Complaint as to Certain Lands.

Upon motion of Mr. Joseph H. Call, special assistant United States attorney, it is ordered that the bill of com-

plaint in said consolidated suit be, and the same is hereby, dismissed, without prejudice as to those lands heretofore withdrawn for or embraced within any Indian or military reservation.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court, June 28, 1897, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, Nos. 675, 587, and 662, consolidated, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this twenty-fourth day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order dismissing bill of complaint as to certain lands. Filed August 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the August term, A. D. 1897, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles on Friday, the seventh day of January, in the year of our Lord, one thousand eight hundred and ninety-eight. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.	No. 675. (Nos. 587, 675, and 662 consolidated.)

Order Dismissing Bill of Complaint as to Certain Lands.

At a stated term of the United States Circuit Court for the Southern District of California, in open court, on this seventh day of January, 1898, on motion of Joseph H. Call, Esq., special assistant United States attorney, and of counsel for complainants, it is hereby ordered that the bill of complaint in the above-entitled cause be, and the same is hereby, dismissed, without prejudice, as to the lands hereinafter described, without in any way affecting the status of said suit and the right of the United States to prosecute the same as to the remainder of said lands described in the said bill of complaint; the lands so dismissed being described as follows, to wit:

The south half of the southwest quarter of section 5; the north half of section 9; the southwest quarter of section 11; all of section 19; the northeast quarter of section 35; township 1 north, range 1 east.

All of section 13, township 1 north, range 1 west.

All of fractional section 7; the south half of section 9; all of sections 13, 15, 21, and 23; the north half of section 25; the north half of section 27, township 1 north, range 1 east.

All of section 17, township 1 north, range 1 east.

The southeast quarter and the east half of the southwest quarter of section 11; the north half of the northeast quarter, and the south half north of the west quarter of the southwest quarter of section 13, township 2 north, range 1 east.

The south half of the southeast quarter of section 7, township 2 north, range 2 east.

The south half of the northeast quarter and the north half of the northwest quarter and the northeast quarter of the southwest quarter and the south half of the southwest quarter and the southeast quarter of section 13, township 2 north, range 1 east.

The south half of the northeast quarter and the southwest quarter of section 13, township 2 north, range 1 west.

The southeast quarter of the northwest quarter and the south half of the southwest quarter of section 15, and south half of the northeast quarter and east half of the northwest quarter, and the southwest quarter of the northwest quarter, and the north half of the southwest

quarter, and the southwest quarter of the southwest quarter of section 17, township 2 north, range 1 east.

Fractional north half of section 19, township 2 north, range 1 east.

The southwest quarter of the northwest quarter and the south half of the southeast quarter and the north half of the southwest quarter of section 15, township 2 north, range 1 east.

The north half of the northeast quarter and the southeast quarter of the southwest quarter and the southeast quarter of section 17, township 2 north, range 1 east.

The northwest quarter of the northwest quarter of section 17, township 2 north, range 1 east.

The northwest quarter of the southwest quarter of section 19, township 2 north, range 1 east.

The northeast quarter of section 21, township 2 north, range 1 east.

The northwest quarter of section 21, township 2 north, range 1 east.

The southeast quarter of section 21, township 2 north, range 1 east.

The southwest quarter of section 21, township 2 north, range 1 east.

The north half of section 5, township 1 north, range 2 west.

The north half of the southwest quarter and the north half of the southeast quarter and the southwest quarter of the southeast quarter of section 31, township 2 north, range 2 west.

The north half of the northeast quarter and the northwest quarter of section 9, township 1 north, range 2 west.

The southeast quarter of section 19, township 1 north, range 3 west.

Lots one, two, and three of the southwest quarter of section 19, township 1 north, range 3 west.

The southwest quarter of section 27, township 1 north, range 3 west.

The north half of the northeast quarter of section 29, township 1 north, range 3 west.

The southeast quarter of the northeast quarter, the east half of the southeast quarter of section 29, township 1 north, range 3 west.

The southwest quarter of the northeast quarter and the south half of the northwest quarter of section 29, township 1 north, range 3 west.

The north half of the northwest quarter of section 29, township 1 north, range 3 west.

The northwest quarter of the southeast quarter, and the north half of the southwest quarter of section 29, township 1 north, range 3 west.

The southwest quarter of the southeast quarter and the south half of the southwest quarter of section 29, township 1 north, range 3 west.

The northwest quarter of the northeast quarter and the east half of the northeast quarter of section 33, township 1 north, range 3 west.

The southwest quarter of the northeast quarter of section 33, township 1 north, range 3 west.

The northeast quarter of the northwest quarter of section 33, township 1 north, range 3 west.

The southeast quarter of the northwest quarter and the west half of the southeast quarter, and the east half

of the southwest quarter of section 33, township 1 north, range 3 west.

The west half of the northwest quarter and the northwest quarter of the southwest quarter of section 33, township 1 north, range 3 west.

The east half of the southeast quarter of section 33, township 1 north, range 3 west.

The southwest quarter of the southwest quarter of section 33, township 1 north, range 3 west.

The northeast quarter of section 35, township 1 north, range 3 west.

The northwest quarter and the south half of section 35, township 1 north, range 3 west.

The northeast quarter of the northeast quarter and the west half of the northeast quarter and the west half of the southeast quarter and the west half of section 11, township 1 north, range 4 west.

The southwest quarter of section 13, township 1 north, range 4 west.

The northwest quarter of section 27, township 1 north, range 5 west.

Lots 2 and 3 of the northeast quarter of section 27, township 1 north, range 5 west.

Fractional southeast quarter of section 27, township 1 north, range 5 west.

The southwest quarter of section 27, township 1 north, range 5 west.

The northwest quarter and the north half of the southwest quarter of section 35, township 1 north, range 5 west.

The south half of the southwest quarter of section 35, township 1 north, range 5 west.

The west half of the southwest quarter of section 9, township 1 north, range 6 west.

The west half of section 11, township 1 north, range 6 west.

The south half of the southeast quarter of section 13, township 1 north, range 6 west.

The north half of the southeast quarter of section 13, township 1 north, range 6 west.

The southwest quarter of section 13, township 1 north, range 6 west.

The northeast quarter of section 15, township 1 north, range 6 west.

The northwest quarter of section 15, and the southwest quarter of the northeast quarter and the east half of the northwest quarter and the northwest quarter of the southeast quarter and the west half of the northwest quarter of section 27, township 1 north, range 6 west.

The west half of the southeast quarter of section 15, township 1 north, range 6 west.

The east half of the southeast quarter of section 15, township 1 north, range 6 west.

The east half of the southwest quarter of section 15, township 1 north, range 6 west.

The west half of the southwest quarter of section 15, township 1 north, range 6 west.

The east half of the northeast quarter of section 17, township 1 north, range 6 west.

The east half of the northeast quarter and the west half of the southeast quarter of section 23, township 1 north, range 6 west.

The east half of the southeast quarter of section 23, and the west half of the southeast quarter and the south half of the southwest quarter of section 31, township 1 north, range 6 west.

The southwest quarter of the northeast quarter and the southeast quarter of the northwest quarter and the southwest quarter of section 23, township 1 north, range 6 west.

The west half of the northwest quarter of section 23, township 1 north, range 6 west.

The northeast quarter of the northeast quarter and the south half of the northeast quarter and the northwest quarter of the northwest quarter and the south half of the northwest quarter and the south half of section 25, township 1 north, range 6 west.

The northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section 25, township 1 north, range 6 west.

The northwest quarter of the northeast quarter of section 27, township 1 north, range 6 west.

The east half of the northeast quarter of section 27, township 1 north, range 6 west.

The east half of the southeast quarter of section 27, township 1 north, range 6 west.

The southwest quarter of the southeast quarter of section 27, township 1 north, range 6 west.

The east half of the southwest quarter of section 27, township 1 north, range 6 west.

The west half of the southwest quarter of section 27, township 1 north, range 6 west.

The west half of section 29, township 1 north, range 6 west.

The east half of the southeast quarter of section 29, township 1 north, range 6 west.

The west half of the southeast quarter of section 29, township 1 north, range 6 west.

The east half of the northeast quarter of section 31, township 1 north, range 6 west.

The west half of the northeast quarter and the north half of the southwest quarter of section 31, township 1 north, range 6 west.

The fractional northwest quarter of section 31, township 1 north, range 6 west.

The southeast quarter of the southeast quarter of section 31, township 1 north, range 6 west.

The northeast quarter of the southeast quarter of section 31, township 1 north, range 6 west.

The northeast quarter of section 35, township 1 north, range 6 west.

The southeast quarter of section 35, township 1 north, range 6 west.

The northwest quarter of section 35, township 1 north, range 6 west.

The southwest quarter of section 35, township 1 north, range 6 west.

Lots 1 and 2 of section 21, township 1 north, range 7 west.

Lots 3 and 4 of section 21, township 1 north, range 7 west.

The east half of the northeast quarter and the east half of the southeast quarter, and lots 1, 2, 3, and 4 of section 27, township 1 north, range 7 west.

The northwest quarter of the northeast quarter and the east half of the northeast quarter and the southeast quarter of the southeast quarter, and lots 1, 2, 3, and 4 of section 35, township 1 north, range 7 west.

The north half of the northeast quarter and the northeast quarter of the northwest quarter of section 13, township 2 north, range 1 west.

The southeast quarter of the northeast quarter and the south half of section 23, township 2 north, range 1 west.

The east half of section 19, township 2 north, range 2 west.

The west half of section 19, township 2 north, range 2 west.

All of section 21, township 2 north, range 2 west.

All of section 23, township 2 north, range 2 west.

All of section 27, township 2 north, range 2 west.

The northeast quarter of section 29, township 2 north, range 2 west.

The south half of the southeast quarter of section 29, township 2 north, range 2 west.

The southwest quarter of section 29, township 2 north, range 2 west.

All of section 35, township 2 north, range 2 west.

The south half of section 19, township 1 south, range 1 west.

The northwest quarter and the north half of the southwest quarter of section 29, township 1 south, range 1 west.

The northeast quarter of the southeast quarter of section 29, township 1 south, range 1 west.

The north half of the northeast quarter and the southwest quarter of the northeast quarter of section 7, township 1 south, range 2 west.

The southeast quarter of the northeast quarter and the east half of the southeast quarter of section 7, township 1 south, range 2 west.

The west half of the southeast quarter of section 7, township 1 south, range 2 west.

The east half of the southwest quarter of section 7, township 1 south, range 2 west.

The west half of the southwest quarter of section 7, township 1 south, range 2 west.

The northwest quarter of section 7, township 1 south, range 2 west.

The west half of the northwest quarter and the southeast quarter of section 9, township 1 south, range 2 west.

The east half of section 13, township 1 south, range 2 west.

The north half of the northwest quarter of section 13, township 1 south, range 2 west.

The south half of the northwest quarter of section 13, township 1 south, range 2 west.

The north half of the southwest quarter of section 13, township 1 south, range 2 west.

The south half of the southwest quarter of section 13, township 1 south, range 2 west.

The north half and the southeast quarter of section 15, township 1 south, range 2 west.

The southwest quarter of section 15, township 1 south, range 2 west.

The east half of the northeast quarter and the southwest quarter of the northeast quarter and the southeast quarter of section 17, township 1 south, range 2 west.

The northwest quarter of the northeast quarter of section 17, township 1 south, range 2 west.

The north half of the northwest quarter of section 17, township 1 south, range 2 west.

The south half of the northwest quarter of section 17, township 1 south, range 2 west.

The southwest quarter of section 17, township 1 south, range 2 west.

The northeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section 19, township 1 south, range 2 west.

The south half of the northeast quarter and the northwest quarter of the southeast quarter and the north half of lots 1 and 2 of section 19, township 1 south, range 2 west.

The south half of lot 2 of section 19, township 1 south, range 2 west.

The northwest quarter of the northeast quarter and the southeast quarter of the northwest quarter of section 19, township 1 south, range 2 west.

The northeast quarter of the northwest quarter and the west half of the northwest quarter of section 19, township 1 south, range 2 west.

The southeast quarter of the southeast quarter of section 19, township 1 south, range 2 west.

The southwest quarter of the southeast quarter and the southeast quarter of the southwest quarter of section 19, township 1 south, range 2 west.

The north half of the northeast quarter of section 21, township 1 south, range 2 west.

The north half of the northwest quarter of section 21, township 1 south, range 2 west.

The southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section 21, township 1 south, range 2 west.

The east half of the southeast quarter of section 21, township 1 south, range 2 west.

The west half of the southeast quarter of section 21, township 1 south, range 2 west.

The southwest quarter of the southwest quarter of section 21, and the northwest quarter of the southeast quarter of section 29, township 1 south, range 2 west.

The southeast quarter of the northeast quarter and the east half of the southeast quarter and the southwest quarter of the southeast quarter of section 29, and the southeast quarter of the southwest quarter of section 21, township 1 south, range 2 west.

The east half of the northeast quarter of section 23, township 1 south, range 2 west.

The west half of the northeast quarter of section 23, township 1 south, range 2 west.

The east half of the northwest quarter of section 23, township 1 south, range 2 west.

The west half of the northwest quarter of section 23, township 1 south, range 2 west.

The west half of the southeast quarter of section 23, township 1 south, range 2 west.

The east half of the southwest quarter of section 23, township 1 south, range 2 west.

The west half of the southwest quarter of section 23, township 1 south, range 2 west.

The northeast quarter of section 25, township 1 south, range 2 west.

The east half of the southwest quarter and the southeast quarter of section 25, township 1 south, range 2 west.

The southwest quarter of the northeast quarter of section 29 and the southwest quarter of section 31, township 1 south, range 2 west.

The northwest quarter of section 31, township 1 south, range 2 west.

The northeast quarter of section 33, township 1 south, range 2 west.

The northwest quarter and the south half of section 33, township 1 south, range 2 west.

The northeast quarter of section 35, township 1 south, range 2 west.

The northwest quarter of section 35, township 1 south, range 2 west.

The southwest quarter of section 35, township 1 south, range 2 west.

The northeast quarter of section 1, township 1 south, range 3 west.

The east half of the northwest quarter of section 1, township 1 south, range 3 west.

The west half of the northwest quarter of section 1, township 1 south, range 3 west.

The northwest quarter of the southeast quarter and the south half of the southeast quarter and the south half of the southwest quarter of section 1, township 1 south, range 3 west.

The northeast quarter of the southeast quarter of section 1, township 1 south, range 3 west.

The north half of the southwest quarter of section 1, township 1 south, range 3 west.

The southeast quarter of the northeast quarter of section 3, township 1 south, range 3 west.

The northeast quarter of the northeast quarter of section 3, township 1 south, range 3 *east*.

The southwest quarter of the northwest quarter of section 3, township 1 south, range 3 west.

The northeast quarter of the northwest quarter of section 3, township 1 south, range 3 west.

The northwest quarter of the northwest quarter of section 3, township 1 south, range 3 west.

The east half of the northeast quarter of section 5, township 1 south, range 3 west.

The north half of the southeast quarter of section 5, township 1 south, range 3 west.

The south half of the southeast quarter of section 5, township 1 south, range 3 west.

The north half of the northeast quarter and the north half of the northwest quarter of section 9, township 1 south, range 3 west.

The south half of the northeast quarter and the south half of the northwest quarter and the south half of section 9, township 1 south, range 3 west.

The northwest quarter of section 11, township 1 south, range 3 west.

The southwest quarter of section 11, township 1 south, range 3 west.

The north half of the northeast quarter and the north half of the northwest quarter of section 13, township 1 north, range 3 west.

The south half of the northeast quarter and the south half of the northwest quarter of section 13, township 1 south, range 3 west.

The south half of the southeast quarter and the south half of the southwest quarter of section 13, township 1 south, range 3 west.

The north half of the southeast quarter of section 13, township 1 south, range 3 west.

The north half of the southwest quarter of section 13, township 1 south, range 3 west.

The south half of the southeast quarter of section 15, township 1 south, range 3 west.

The south half of the southwest quarter of section 15, township 1 south, range 3 west.

The south half of section 23, township 1 south, range 3 west.

The south half of the northwest quarter of section 23, township 1 south, range 3 west.

The north half of the northeast quarter of section 23, township 1 south, range 3 west.

The north half of the northwest quarter of section 23, township 1 south, range 3 west.

The north half of section 31, township 1 south, range 3 west.

The southeast quarter of section 31, township 1 south, range 3 west.

The southwest quarter of section 31, township 1 south, range 3 west.

The northeast quarter of section 33, township 1 south, range 3 west.

The southeast quarter of section 33, township 1 south, range 3 west.

The northwest quarter of section 33, township 1 south, range 3 west.

The southwest quarter of section 33, township 1 south, range 3 west.

The northeast quarter and the southwest quarter of section 35, township 1 south, range 3 west.

The northwest quarter of section 35, township 1 south, range 3 west.

The southeast quarter of section 35, township 1 south, range 3 west.

The west half of the northeast quarter and lots 7 and 8 of section 7, township 1 south, range 4 west.

The east half of the northwest quarter of section 7, township 1 south, range 4 west.

The northwest quarter of the southeast quarter and lot 6 of section 7, township 1 south, range 4 west.

The southwest quarter of the southeast quarter and lot 5 of section 7, township 1 south, range 4 west.

The northeast quarter of the southwest quarter of section 7, township 1 south, range 4 west.

The southeast quarter of the southwest quarter of section 7, township 1 south, range 4 west.

The west half of the northwest quarter of section 7, township 1 south, range 4 west.

Lots 3 and 4 in the southwest quarter of section 7, township 1 south, range 4 west.

The northeast quarter of the northwest quarter and the north half of the northeast quarter of section 19, township 1 south, range 4 west.

The southeast quarter of the northwest quarter and the northeast quarter of the southwest quarter and lots 6 and 7 of section 19, township 1 south, range 4 west.

The southeast quarter of the southwest quarter and lots 1, 2, 3, 4, and 5 of section 19, township 1 south, range 4 west.

Lot 1 and the south half of the northeast quarter, and the southeast quarter of the northwest quarter and the southeast quarter of section 33, township 1 south, range 4 west.

The southwest quarter of section 33, township 1 south, range 4 west.

The fractional northeast quarter of section 35, township 1 south, range 4 west.

The fractional northwest quarter of section 35, township 1 south, range 4 west.

The fractional south half of section 35, township 1 south, range 4 west.

Lots 5, 6, and 7 of section 25, township 1 south, range 5 west.

Lots 8, 9, and 12 of section 25, township 1 south, range 5 west.

Lots 3 and 4 of the southwest quarter of section 25, township 1 south, range 5 west.

The fractional northwest quarter of section 31, township 1 south, range 5 west.

The north half of the northeast quarter of section 31, township 1 south, range 5 west.

The south half of the northeast quarter of section 31, township 1 south, range 5 west.

Lots 1 and 2 of the northeast quarter of section 33, township 1 south, range 5 west.

Lot 3 of section 33, township 1 south, range 5 west.

The southeast quarter of the northeast quarter and lots 4 and 5 of section 33, township 1 south, range 5 west.

The south half of the northwest quarter of section 33, township 1 south, range 5 west.

The north half of the northwest quarter of section 33, township 1 south, range 5 west.

The northwest quarter of the southeast quarter and lots 6 and 7 of section 33, township 1 south, range 5 west.

The north half of the southwest quarter of section 33, township 1 south, range 5 west.

The southwest quarter of the southwest quarter and lot 8 of section 33, township 1 south, range 5 west.

Lots 1 and 2 of section 35, township 1 south, range 5 west.

Lot 3 of section 35, township 1 south, range 5 west.

The fractional northeast quarter of section 5, township 1 south, range 6 west.

The east half of section 7 and the west half of the northwest quarter and the west half of the southwest quarter of section 17 and the northwest quarter and the east half of section 19, township 1 south, range 6 west.

The northwest quarter of section 9, township 1 south, range 6 west.

The fractional southwest quarter of section 19, township 1 south, range 6 west.

The northwest quarter of section 29, township 1 south, range 6 west.

The southwest quarter of the northwest quarter and the west half of the southwest quarter of section 31, township 1 south, range 6 west.

The northwest quarter of section 35, township 1 south, range 6 west.

The northeast quarter of section 35, township 1 south, range 6 west.

The southeast quarter of section 35, township 1 south, range 6 west.

The southwest quarter of section 35, township 1 south, range 6 west.

The southwest quarter of the southeast quarter of section 8, township 1 south, range 7 west.

The north half of section 21, township 1 south, range 7 west.

The south half of section 21 and the northwest quarter of section 27 and the north half, and the north half of the southeast quarter, and the northeast quarter of the southwest quarter, lots 2, 3, and 4 of section 29, township 1 south, range 7 west.

The northwest quarter of the northwest quarter of section 23, township 1 south. range 7 west.

The southwest quarter of section 27, township 1 south, range 7 west.

The northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter, and lot 1 of the northwest quarter of section 33, township 1 south, range 7 west.

The northeast quarter of the northeast quarter and the southeast quarter of the northwest quarter of section 33, township 1 south, range 7 west.

The north half of the southeast quarter and the south half of the northeast quarter of section 33, township 1 south, range 7 west.

The south half of the southeast quarter and the east half of the southwest quarter of section 33, township 1 south, range 7 west.

Lots 2, 3, and 4 of section 33, township 1 south, range 7 west.

The northeast quarter and the north half of the northwest quarter and the southeast quarter of the northwest quarter of section 1, township 2 south, range 1 west.

The southwest quarter of the northwest quarter of section 1, township 2 south, range 1 west.

The south half of section 1, township 2 south, range 1 west.

The southwest quarter of the southeast quarter of section 5, township 2 south, range 1 west.

The northeast quarter of the northeast quarter of section 7, township 2 south, range 1 west.

The east half of the southeast quarter of section 7, and the northwest quarter of section 17, township 2 south, range 1 west.

The north half of the northwest quarter of section 9, township 2 south, range 1 west.

The southeast quarter of section 9, township 2 south, range 1 west.

The southeast quarter of the southwest quarter of section 9, township 2 south, range 1 west.

The west half of the southwest quarter of section 9, township 2 south, range 1 west.

All of fractional section 11, township 2 south, range 1 west.

The fractional northeast quarter of section 13, township 2 south, range 1 west.

The northwest quarter of section 13, township 2 south, range 1 west.

The southeast quarter of section 13, township 2 south, range 1 west.

The fractional southwest quarter of section 13, township 2 south, range 1 west.

The southeast quarter of the northeast quarter and the west half of the northeast quarter of section 15, township 2 south, range 1 west.

The northeast quarter of the northeast quarter and the northwest quarter of the northwest quarter of section 15, township 2 south, range 1 west.

The northeast quarter of the northwest quarter and the south half of the northwest quarter of section 15, township 2 south, range 1 west.

The southeast quarter of section 15, township 2 south, range 1 west.

The southwest quarter of section 15, township 2 south, range 1 west.

The northeast quarter of section 21, township 2 south, range 1 west.

The southeast quarter of section 21, township 2 south, range 1 west.

The southwest quarter of section 21, township 2 south, range 1 west.

The northeast quarter of section 23, township 2 south, range 1 west.

The southeast quarter of section 23, township 2 south, range 1 west.

The east half of the northwest quarter of section 23, township 2 south, range 1 west.

The southwest quarter of the northwest quarter of section 23, township 2 south, range 1 west.

The south half of the southwest quarter of section 23, township 2 south, range 1 west.

The west half of the northwest quarter of section 25, township 2 south, range 1 west.

The east half of the northwest quarter of section 25, township 2 south, range 1 west.

The east half of section 25, township 2 south, range 1 west.

The southwest quarter of section 27, township 2 south, range 1 west.

The south half of the northeast quarter and the south half of section 29, and the northwest quarter of section 33, township 2 south, range 1 west.

The northeast quarter of section 31, township 2 south, range 1 west.

The southeast quarter and the west half of section 31, township 2 south, range 1 west.

The northeast quarter of section 33, township 2 south, range 1 west.

The southeast quarter of section 33, township 2 south, range 1 west.

The southwest quarter of section 33, township 2 south, range 1 west.

All of section 35, township 2 south, range 1 west.

The northeast quarter of section 7, township 2 south, range 2 west.

The northwest quarter of section 7, township 2 south, range 2 west.

Lots 4, 5, 6, 7 and 8 of section 7, township 2 south, range 2 west.

The northwest quarter of section 15, township 2 south, range 2 west.

The south half of the northeast quarter of section 15, township 2 south, range 2 west.

Lots 1, 2, 7 and 8 of section 17, township 2 south, range 2 west.

Lots 3 and 4 of section 17, township 2 south, range 2 west.

Lots 5 and 6, section 7, township 2 south, range 2 west.

The southeast quarter of section 17, township 2 south, range 2 west.

The southwest quarter of section 17, township 2 south, range 2 west.

The northwest quarter of the southeast quarter of section 19, township 2 south, range 2 west.

The southeast quarter of the northwest quarter of section 19, township 2 south, range 2 west.

The southwest quarter of the northwest quarter of section 19, township 2 south, range 2 west.

The northwest quarter of the northwest quarter of section 19, township 2 south, range 2 west.

The northeast quarter of the southwest quarter of section 19, township 2 south, range 2 west.

The northeast quarter of section 23, township 2 south, range 2 west.

The north half of the northeast quarter of section 29, township 2 south, range 2 west.

The northeast quarter of section 1, township 2 south, range 3 west.

The northwest quarter of section 1, township 2 south, range 3 west.

The southeast quarter of section 1, township 2 south, range 3 west.

The southwest quarter of section 1, township 2 south, range 3 west.

The north half of the northeast quarter of section 3, township 2 south, range 3 west.

The south half of the northeast quarter of section 3, township 2 south, range 3 west.

The north half of the northwest quarter of section 3, township 2 south, range 3 west.

The south half of the northwest quarter of section 3, township 2 south, range 3 west.

The southeast quarter of section 3, township 2 south, range 3 west.

The east half of the southwest quarter of section 3, township 2 south, range 3 west.

The northeast quarter of section 5, township 2 south, range 3 west.

The northwest quarter and the south half of section 5, township 2 south, range 3 west.

All of section 7, township 2 south, range 3 west.

The northeast quarter of section 9, township 2 south, range 3 west.

The northwest quarter of section 9, township 2 south, range 3 west.

The south half of section 9, township 2 south, range 3 west.

The northeast quarter of section 11, township 2 south, range 3 west.

The northwest quarter of section 11, township 2 south, range 3 west.

The southeast quarter of section 11, township 2 south, range 3 west.

Lots 1 and 2 of section 13, township 2 south, range 3 west.

Lots 5 and 6 of section 13, township 2 south, range 3 west.

Lots 7 and 8 of section 13, township 2 south, range 3 west.

Lots 9, 10, 15 and 16 of section 13, township 2 south, range 3 west.

Lots 11, 12, 13 and 14 of section 13, township 2 south, range 3 west.

All of section 15, township 2 south, range 3 west.

All of section 17, township 2 south, range 3 west.

All of section 21, township 2 south, range 3 west.

The northeast quarter of section 25, township 2 south, range 3 west.

The northwest quarter of section 25, township 2 south, range 3 west.

The southeast quarter of section 25, township 2 south, range 3 west.

The southwest quarter of section 25, township 2 south, range 3 west.

All of section 27, township 2 south, range 3 west.

The southwest quarter of section 29, township 2 south, range 3 west.

The northeast quarter of section 31, township 2 south, range 3 west.

The northwest quarter of section 31, township 2 south, range 3 west.

The southeast quarter of section 31, township 2 south, range 3 west.

The southwest quarter of section 31, township 2 south, range 3 west.

The north half and the southeast quarter of section 33, township 2 south, range 3 west.

The southwest quarter of section 33, township 2 south, range 3 west.

The northeast quarter of section 35, township 2 south, range 3 west.

The northwest quarter of section 35, township 2 south, range 3 west.

The southeast quarter of section 35, township 2 south, range 3 west.

The southwest quarter of section 35, township 2 south, range 3 west.

All of section 1, township 2 south, range 4 west.

The northeast quarter of the southeast quarter and the northeast quarter of section 3, township 2 south, range 4 west.

The northwest quarter of section 3, township 2 south, range 4 west.

The northeast quarter of section 5, township 2 south, range 4 west.

The northwest quarter of section 5, township 2 south, range 4 west.

The southeast quarter of section 5, township 2 south, range 4 west.

The southwest quarter of section 5, township 2 south, range 4 west.

The northeast quarter of section 7, township 2 south, range 4 west.

The southeast quarter of section 7, township 2 south, range 4 west.

The fractional west half of section 7, township 2 south, range 4 west.

The east half of the southwest quarter and the east half of section 9, township 2 south, range 4 west.

The northwest quarter of the northwest quarter of section 9, township 2 south, range 4 west.

The southwest quarter of the northwest quarter of section 9, township 2 south, range 4 west.

The northeast quarter of the northwest quarter of section 9, township 2 south, range 4 west.

The southeast quarter of the northwest quarter of section 9, township 2 south, range 4 west.

The southwest quarter of the southwest quarter of section 9, township 2 south, range 4 west.

The northwest quarter of the southwest quarter of section 9, township 2 south, range 4 west.

All of section 11, township 2 south, range 4 west.

The south half of the northeast quarter of section 17, township 2 south, range 4 west.

The north half of the northeast quarter of section 17, township 2 south, range 4 west.

The southeast quarter of the northwest quarter of section 17, township 2 south, range 4 west.

The north half of the northwest quarter and the south half of the northwest quarter of section 17, township 2 south, range 4 west.

The south half of the southwest quarter and the southeast quarter of section 17, township 2 south, range 4 west.

The north half of the southwest quarter of section 17, township 2 south, range 4 west.

The northeast quarter of section 19, township 2 south, range 4 west.

The northwest quarter of section 19, township 2 south, range 4 west.

The southwest quarter of section 19, township 2 south, range 4 west.

The south half of the northeast quarter of section 21, township 2 south, range 4 west.

The north half of the northeast quarter of section 21, township 2 south, range 4 west.

The southeast quarter of the northwest quarter of section 21, township 2 south, range 4 west.

The north half of the northwest quarter and the southwest quarter of the northwest quarter of section 21, township 2 south, range 4 west.

The southeast quarter of section 21, township 2 south, range 4 west.

The north half of the southwest quarter of section 21, township 2 south, range 4 west.

The south half of the southwest quarter of section 21, township 2 south, range 4 west.

All of section 23, township 2 south, range 4 west.

All of section 25, township 2 south, range 4 west.

The east half of the northwest quarter, the northeast quarter and the south half of section 29; the south half of the northeast quarter and the south half of section 31; the northwest quarter of the northeast quarter, the east half of the northeast quarter and the southwest quarter of section 33, township 2 south, range 4 west.

The northwest quarter of the northwest quarter of section 29, township 2 south, range 4 west.

The southwest quarter of the northwest quarter of section 29, township 2 south, range 4 west.

The north half of the northeast quarter of section 31, township 2 south, range 4 west.

The south half of the northwest quarter of section 31, township 2 south, range 4 west.

The north half of the northwest quarter of section 31, township 2 south, range 4 west.

The southwest quarter of the northeast quarter, the northwest quarter and the southeast quarter of section 33, township 2 south, range 4 west.

The northeast quarter of section 35, township 2 south, range 4 west.

The northwest quarter and the south half of section 35, township 2 south, range 4 west.

The southwest quarter of the southeast quarter and lot 4 of section 13, township 2 south, range 5 west.

The east half of the southeast quarter of section 13, township 2 south, range 5 west.

Lot 5 of section 13, township 2 south, range 5 west.

Lots 1 and 2 of section 23, township 2 south, range 5 west.

The northeast quarter of the northwest quarter of section 25, township 2 south, range 5 west.

The northwest quarter of the northwest quarter of section 25, township 2 south, range 5 west.

The south half of the northwest quarter, the northeast quarter and the south half of section 25, township 2 south, range 5 west.

Lot 1 of section 27, township 2 south, range 5 west.

Lots 1 and 2 of section 29, township 2 south, range 5 west.

Lots 3 and 4 of section 29, township 2 south, range 5 west.

Lots 1 and 2 of section 31, township 2 south, range 5 west.

Lots 3 and 4 of section 31, township 2 south, range 5 west.

The northeast quarter of the northeast quarter of section 33, township 2 south, range 5 west.

The southeast quarter of the northeast quarter of section 33, township 2 south, range 5 west.

The west half of the northwest quarter of section 33, township 2 south, range 5 west.

The northeast quarter of the southeast quarter of section 33, township 2 south, range 5 west.

The south half of the southeast quarter of section 33, township 2 south, range 5 west.

The northwest quarter of the southeast quarter of section 33, township 2 south, range 5 west.

The northeast quarter of the southwest quarter of section 33, township 2 south, range 5 west.

The southeast quarter of the southwest quarter of section 33, township 2 south, range 5 west.

The southwest quarter of the southwest quarter of section 33, township 2 south, range 5 west.

The northwest quarter of the southwest quarter of section 33, township 2 south, range 5 west.

The northeast quarter of the northeast quarter, the south half of the northeast quarter, the northwest quarter of the southeast quarter of section 35, township 2 south, range 5 west.

The northwest quarter of the northeast quarter and the northeast quarter of the northwest quarter of section 35, township 2 south, range 5 west.

The southeast quarter of the northwest quarter, and lot 1, and the northeast quarter of the southwest quarter of section 35, township 2 south, range 5 west.

The southwest quarter of the northwest quarter of section 35, township 2 south, range 5 west.

The southwest quarter of the southeast quarter of section 35, township 2 south, range 5 west.

The east half of the southeast quarter of section 35, township 2 south, range 5 west.

The northwest quarter of the southwest quarter of section 35, township 2 south, range 5 west.

The southwest quarter of the southwest quarter of section 35, township 2 south, range 5 west.

The southeast quarter of the southwest quarter of section 35, township 2 south, range 5 west.

The northeast quarter of section 1, township 2 south, range 6 west.

The northwest quarter of section 1, township 2 south, range 6 west.

The northwest quarter of section 3, township 2 south, range 6 west.

The northeast quarter of section 3, township 2 south, range 6 west.

The south half of section 3, township 2 south, range 6 west.

All of section 5, township 2 south, range 6 west.

The northeast quarter of section 7, township 2 south, range 6 west.

The southeast quarter of section 7, township 2 south, range 6 west.

The west half of section 7, township 2 south, range 6 west.

The northeast quarter and the north half of the southeast quarter of section 9, township 2 south, range 6 west.

The northwest quarter and the north half of the southwest quarter of section 9, township 2 south, range 6 west.

The south half of the southeast quarter and the south half of the southwest quarter of section 9, township 2 south, range 6 west.

The northwest quarter of the northeast quarter and lots 1 and 2 of section 11, township 2 south, range 6 west.

The northwest quarter, and lots 3 and 4 of section 17, township 2 south, range 6 west.

The fractional northeast quarter of section 17, township 2 south, range 6 west.

Lot 1 of section 19, township 2 south, range 6 west.

The east half of section 1, township 2 south, range 7 west.

The northwest quarter of section 1, township 2 south, range 7 west.

The southwest quarter of section 1, township 2 south, range 7 west.

All of fractional section 3, township 2 south, range 7 west.

All of section 11, township 2 south, range 7 west.

The northeast quarter of section 13, township 2 south, range 7 west.

The east half of the northwest quarter of section 13, township 2 south, range 7 west.

The west half of the northwest quarter of section 13, township 2 south, range 7 west.

The northwest quarter of the southeast quarter, the northeast quarter of the southwest quarter, the west half of the southwest quarter, and lots 1, 2 and 3 of section 13, township 2 south, range 7 west.

The west half of the northeast quarter of section 15, township 2 south, range 7 west.

The southwest quarter of the southeast quarter, and lots 3 and 4 of section 15, township 2 south, range 7 west.

Lots 1 and 2 of section 5, township 2 south, range 7 west.

Lot 3 of section 23, township 2 south, range 7 west.

Lot 4 of section 23, township 2 south, range 7 west.

The northwest quarter of the northeast quarter of section 23, township 2 south, range 7 west.

The northeast quarter of the northwest quarter of section 23, township 2 south, range 7 west.

Lot 1 of section 23, township 2 south, range 7 west.

Lot 2 of section 23, township 2 south, range 7 west.

Lot 1 of section 27, township 2 south, range 7 west.

Lots 2 and 3 of section 27, township 2 south, range 7 west.

All of section 1, township 3 south, range 1 west.

All of section 3, and the northeast quarter of section 9, township 3 south, range 1 west.

The northwest quarter of section 5, township 3 south, range 1 west.

The northeast quarter of section 5, township 3 south, range 1 west.

The south half of section 5; the northwest quarter of section 9; the northwest quarter of section 15, township 3 south, range 1 west.

The northeast quarter of section 7; and the west half of the northeast quarter of section 15, township 3 south, range 1 west.

The northwest quarter of section 7, township 3 south, range 1 west.

The southeast quarter of section 9, township 3 south, range 1 west.

Lots 1, 2, 3 and 4 of section 9, township 3 south, range 1 west.

The north half of section 11, township 3 south, range 1 west.

The south half of section 11, township 3 south, range 1 west.

The north half of section 13, township 3 south, range 1 west.

The southeast quarter of section 13, township 3 south, range 1 west.

The southwest quarter of section 13, township 3 south, range 1 west.

The southwest quarter of section 15, township 3 south, range 1 west.

All of section 19, township 3 south, range 1 west.

The west half of the northeast quarter, and the east half of the northwest quarter of section 31, township 3 south, range 1 west.

The east half of the northeast quarter, the northwest quarter of the southeast quarter, the east half of the southeast quarter, and lots 1, 2, 3, 4, 5 and 6 of section 31, township 3 south, range 1 west.

The northeast quarter and the south half of section 33, township 3 south, range 1 west.

The northwest quarter of section 33, township 3 south, range 1 west.

The southwest quarter of the northeast quarter, and lots 1 and 2 of section 7, township 3 south, range 2 west.

The northwest quarter of the northeast quarter and lot 7 of section 7, township 3 south, range 2 west.

The north half of the northwest quarter of section 7, township 3 south, range 2 west.

The south half of the northwest quarter of section 7, township 3 south, range 2 west.

The north half of the southeast quarter, and lots 5 and 6 of section 7, township 3 south, range 2 west.

The north half of the southwest quarter, and lots 3 and 4 of section 7, township 3 south, range 2 west.

All of section 15, township 3 south, range 2 west.

Lot 1 of section 21, township 3 south, range 2 west.

All of section 23, township 3 south, range 2 west.

All of section 25, township 3 south, range 2 west.

The northwest quarter of section 3, township 3 south, range 3 west.

The south half of section 3, township 3 south, range 3 west.

The northwest quarter of section 11, township 3 south, range 2 west.

The northeast quarter and the northeast quarter of the northwest quarter of section 9, township 3 south, range 4 west.

The east half of section 19, township 3 south, range 4 west.

The northwest quarter of section 19, township 3 south, range 4 west.

The southwest quarter of section 19, township 3 south, range 4 west.

The south half of section 29, township 3 south, range 4 west.

All of section 31, township 3 south, range 4 west.

The northeast quarter of section 33, township 3 south, range 4 west.

The northwest quarter of section 33, township 3 south, range 4 west.

The southeast quarter of section 33, township 3 south, range 4 west.

The southwest quarter of section 33, township 3 south, range 4 west.

The northeast quarter of section 1, township 3 south, range 5 west.

The northwest quarter of section 1, township 3 south, range 5 west.

The west half of the southeast quarter of section 1, township 3 south, range 5 west.

The east half of the southeast quarter of section 1, township 3 south, range 5 west.

The southwest quarter of section 1, township 3 south, range 5 west.

All of section 13, township 3 south, range 5 west.

The south half of the southeast quarter of section 15, township 3 south, range 5 west.

The south half of the southwest quarter of section 15, township 3 south, range 5 west.

The east half of section 21, township 3 south, range 5 west.

The northeast quarter of section 23, township 3 south, range 5 west.

The northwest quarter of section 23, township 3 south, range 5 west.

The southeast quarter of section 23, township 3 south, range 5 west.

The southwest quarter of section 23, township 3 south, range 5 west.

The northeast quarter of section 25, township 3 south, range 5 west.

The northwest quarter of section 25, township 3 south, range 5 west.

The southwest quarter of section 25, township 3 south, range 5 west.

The southeast quarter of section 25, township 3 south, range 5 west.

The north half, the north half of the southeast quarter, the north half of the southwest quarter of section 27, township 3 south, range 5 west.

Lot 1 of section 5, township 3 south, range 7 west.

The fractional southwest quarter of section 7, township 3 south, range 7 west.

Lots 7 and 8 of section 19, township 3 south, range 7 west.

Lots 1 and 2 of section 29, township 3 south, range 5 west.

The fractional north half of section 21, township 4 south, range 2 west.

The fractional south half of section 21, township 4 south, range 2 west.

The fractional northeast quarter of section 25, township 4 south, range 2 west.

The northeast quarter of section 27, township 4 south, range 2 west.

The northwest quarter of section 27, township 4 south, range 2 west.

The southwest quarter of section 27, township 4 south, range 2 west.

All of fractional section 29, township 4 south, range 2 west.

All of fractional section 33, township 4 south, range 2 west.

Lots 1 and 2 of section 7, township 4 south, range 3 west.

The fractional northwest quarter of section 7, township 4 south, range 3 west.

The northwest quarter of the southeast quarter and lot 3 of section 7, township 4 south, range 3 west.

The south half of the southeast quarter, and the south half of the southwest quarter of section 7, township 4 south, range 3 west.

The north half of the southwest quarter of section 7, township 4 south, range 3 west.

The fractional northwest quarter of section 17, township 4 south, range 3 west.

The fractional southeast quarter of section 17, township 4 south, range 3 west.

The southwest quarter of section 17, township 4 south, range 3 west.

The northeast quarter of section 19, township 4 south, range 3 west.

The southeast quarter of section 19, township 4 south, range 3 west.

The northwest quarter of section 19, township 4 south, range 3 west.

The southwest quarter of section 19, township 4 south, range 3 west.

Lots 1, 2 and 3 of section 21, township 4 south, range 3 west.

The northeast quarter of the northeast quarter of section 25, township 4 south, range 3 west.

The northwest quarter of the northeast quarter of section 25, township 4 south, range 3 west.

The southeast quarter of the northeast quarter of section 25, township 4 south, range 3 west.

The southwest quarter of the northeast quarter of section 25, township 4 south, range 3 west.

The southeast quarter of the northwest quarter, and lots 1 and 2 of section 25, township 4 south, range 3 west.

The southwest quarter of section 35, township 4 south, range 3 west.

The northeast quarter of section 29, township 4 south, range 3 west.

The north half of the northwest quarter of section 29, township 4 south, range 3 west.

The south half of the northwest quarter of section 29, township 4 south, range 3 west.

The north half of the southeast quarter of section 29, township 4 south, range 3 west.

The south half of the southeast quarter of section 29, township 4 south, range 3 west.

The southwest quarter of section 29, township 4 south, range 3 west.

The northeast quarter of section 31, township 4 south, range 3 west.

The northwest quarter of section 31, township 4 south, range 3 west.

The southeast quarter of section 31, township 4 south, range 3 west.

The southwest quarter of section 31, township 4 south, range 3 west.

The northeast quarter and the southwest quarter of section 33, township 4 south, range 3 west.

The northwest quarter of section 33, township 4 south, range 3 west.

The southeast quarter of section 33, township 4 south, range 3 west.

The northeast quarter of section 35, township 4 south, range 3 west.

The northwest quarter of section 35, township 4 south, range 3 west.

The southeast quarter of section 35, township 4 south, range 3 west.

The southwest quarter of section 35, township 4 south, range 3 west.

The northeast quarter of section 1, township 4 south, range 4 west.

The northwest quarter of section 1, township 4 south, range 4 west.

The southeast quarter of section 1, township 4 south, range 4 west.

The north half of the southwest quarter of section 1, township 4 south, range 4 west.

The south half of the southwest quarter of section 1, township 4 south, range 4 west.

The south half of the northeast quarter of section 9, township 4 south, range 4 west.

The northwest quarter of section 9, township 4 south, range 4 west.

The southeast quarter of section 9, township 4 south, range 4 west.

The northwest quarter of section 11, township 4 south, range 4 west.

The northeast quarter of section 11, township 4 south, range 4 west.

The southeast quarter of section 11, township 4 south, range 4 west.

The southwest quarter of section 11, township 4 south, range 4 west.

The north half of section 13, township 4 south, range 4 west.

The southeast quarter of section 13, township 4 south, range 4 west.

The north half of the southwest quarter of section 13, township 4 south, range 4 west.

The south half of the southwest quarter of section 13, township 4 south, range 4 west.

The northwest quarter of section 15 township 4 south, range 4 west.

The southwest quarter of section 15, township 4 south, range 4 west.

All of section 21, township 4 south, range 4 west.

All of section 25, township 4 south, range 4 west.

All of section 27, township 4 south, range 4 west.

The south half of the northeast quarter and the south half of the northwest quarter of section 33, township 4 south, range 4 west.

The south half of section 33, township 4 south, range 4 west.

The northeast quarter of section 35, township 4 south, range 4 west.

The northwest quarter of section 35, township 4 south, range 4 west.

The southwest quarter of section 35, township 4 south, range 4 west.

The fractional east half of the southwest quarter and the fractional southeast quarter of section 5, township 4 south, range 6 west.

Lots 4 and 5 of section 5, township 4 south, range 6 west.

The fractional southwest quarter of section 9, township 4 south, range 6 west.

Lots 1, 2, 3 and 4 of section 17, township 4 south, range 6 west.

The south half of the northeast quarter, the south half of the northwest quarter and the south half of section 17, township 4 south, range 6 west.

Lots 1, 2, 7 and 8 of section 21, township 4 south, range 6 west.

Lot 9 of section 21, township 4 south, range 6 west.

Lot 12 of section 21, and fractional northwest quarter of section 27, township 4 south, range 6 west.

The fractional northeast quarter of section 27, township 4 south, range 6 west.

The fractional southeast quarter of section 27, township 4 south, range 6 west.

The southwest quarter of section 27, township 4 south, range 6 west.

The east half of the northeast quarter of section 33, township 4 south, range 6 west.

The southeast quarter of the southeast quarter of section 33, township 4 south, range 6 west, and lot 4 of section 3, township 5 south, range 6 west.

The west half of the northeast quarter of section 33, township 4 south, range 6 west.

The northeast quarter of the southeast quarter, and the west half of the southeast quarter of section 33, township 4 south, range 6 west.

The northeast quarter of section 35, township 4 south, range 6 west.

The north half of the northwest quarter of section 35, township 4 south, range 6 west.

The southeast quarter and the east half of the southwest quarter of section 35, township 4 south, range 6 west.

The northeast quarter of section 23, township 5 south, range 1 west.

The fractional south half of scetion 23, township 5 south, range 1 west.

All of section 25, township 5 south, range 1 west.

The northeast quarter and lots 1 and 2 of section 27, township 5 south, range 1 west.

The southeast quarter of section 31, township 5 south, range 1 west.

The southwest quarter of section 31, township 5 south, range 1 west.

Lots 1 and 2 of section 33, township 5 south, range 1 west.

The northeast quarter of section 35, township 5 south, range 1 west.

The northwest quarter of the northeast quarter, the south half of the northeast quarter, the north half of the

southeast quarter of section 1, township 5 south, range 2 west.

The south half of the southeast quarter of section 1, township 5 south, range 2 west.

The northeast quarter of the northeast quarter of section 1, township 5 south, range 2 west.

The east half of the northwest quarter, and the east half of the southwest quarter of section 1, township 5 south, range 2 west.

The northeast quarter of section 3, township 5 south, range 2 west.

The west half of section 3, township 5 south, range 2 west.

All of section 7, township 5 south, range 2 west.

The northeast quarter of the southwest quarter, the east half of the northwest quarter, and the northeast quarter of section 11, township 5 south, range 2 west.

The southeast quarter of the southwest quarter, and the southeast quarter of section 11, township 5 south, range 2 west.

The southwest quarter of the southwest quarter of section 11, township 5 south, range 2 west.

The northeast quarter of section 15, township 5 south, range 2 west.

The south half of the northwest quarter, the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter of section 15, township 5 south, range 2 west.

The north half of the northwest quarter of section 15, township 5 south, range 2 west.

The east half of the southeast quarter of section 15, township 5 south, range 2 west.

The northwest quarter of the southwest quarter, and the southwest quarter of the southeast quarter of section 15, township 5 south, range 2 west.

The south half of the southwest quarter of section 15, township 5 south, range 2 west.

The northeast quarter of section 17, township 5 south, range 2 west.

The southwest quarter of section 17, township 5 south, range 2 west.

The southeast quarter of section 19, township 5 south, range 2 west.

The north half of section 19, township 5 south, range 2 west.

The southwest quarter of section 19, township 5 south, range 2 west.

The south half of the southeast quarter of section 21, township 5 south, range 2 west.

The south half of the southwest quarter of section 21, township 5 south, range 2 west.

The north half of the southwest quarter of section 21, township 5 south, range 2 west.

The northeast quarter of section 23, township 5 south, range 2 west.

The southwest quarter of the northwest quarter, and the west half of the southwest quarter of section 23, township 5 south, range 2 west.

The north half of the northwest quarter and the southeast quarter of the northwest quarter of section 23, township 5 south, range 2 west.

The east half of the southeast quarter of section 23, township 5 south, range 2 west.

The northeast quarter of the southwest quarter of section 23, township 5 south, range 2 west.

The west half of the southeast quarter and the southeast quarter of the southwest quarter of section 23, township 5 south, range 2 west.

The northeast quarter of section 25, township 5 south, range 2 west.

The west half of the northwest quarter of section 25, township 5 south, range 2 west.

The southeast quarter, the east half of the northwest quarter, the northeast quarter of the southwest quarter of section 25, township 5 south, range 2 west.

The northwest quarter of the southwest quarter, and the south half of the southwest quarter of section 25, township 5 south, range 2 west.

All of section 29, township 5 south, range 2 west.

The northeast quarter of section 31, township 5 south, range 2 west.

The east half of the northwest quarter of section 31, township 5 south, range 2 west.

The west half of the northwest quarter of section 31, township 5 south, range 2 west.

The northeast quarter of the southwest quarter of section 31, township 5 south, range 2 west.

The west half of the southwest quarter of section 31, township 5 south, range 2 west.

The northeast quarter of section 33, township 5 south, range 2 west.

The northwest quarter of section 33, township 5 south, range 2 west.

The southeast quarter of section 33, township 5 south, range 2 west.

The southwest quarter of section 33, township 5 south, range 2 west.

The east half of the northeast quarter of section 35, township 5 south, range 2 west.

The west half of the northeast quarter of section 35, township 5 south, range 2 west.

The east half of the northwest quarter of section 35, township 5 south, range 2 west.

The west half of the northwest quarter of section 35, township 5 south, range 2 west.

The northeast quarter of section 1, township 5 south, range 3 west.

The northwest quarter of section 1, township 5 south, range 3 west.

The southeast quarter of section 1, township 5 south, range 3 west.

The southwest quarter of section 1, township 5 south, range 3 west.

The northeast quarter of section 3, township 5 south, range 3 west.

The southeast quarter of section 3, township 5 south, range 3 west.

The west half of section 3, township 5 south, range 3 west.

The northeast quarter of section 5, township 5 south, range 3 west.

Lot 1 of the northwest quarter of section 5, township 5 south, range 3 west.

The north half of the northwest quarter of section 5, township 5 south, range 3 west.

The southwest quarter of section 5, township 5 south, range 3 west.

The southeast quarter of section 5, township 5 south, range 3 west.

All of section 7, township 5 south, range 3 west.

The northeast quarter of section 9, township 5 south, range 3 west.

The northwest quarter of section 9, township 5 south, range 3 west.

The southeast quarter of section 9, township 5 south, range 3 west.

The southwest quarter of section 9, township 5 south, range 3 west.

The northeast quarter of section 11, township 5 south, range 3 west.

The northeast quarter of the northwest quarter of section 11, township 5 south, range 3 west.

The northwest quarter of the northwest quarter of section 11, township 5 south, range 3 west.

The southeast quarter of section 11, township 5 south, range 3 west.

The southwest quarter of section 11, township 5 south, range 3 west.

The northwest quarter of section 13, township 5 south, range 3 west.

The southwest quarter of section 13, township 5 south, range 3 west.

The northeast quarter of section 15, township 5 south, range 3 west.

The northwest quarter of section 15, township 5 south, range 3 west.

The south half of section 15, township 5 south, range 3 west.

The northeast quarter of section 17, township 5 south, range 3 west.

The northwest quarter of section 17, township 5 south, range 3 west.

The southeast quarter of section 17, township 5 south, range 3 west.

The southwest quarter of section 17, township 5 south range 3 west.

All of section 19, township 5 south, range 3 west.

The northeast quarter of section 21, township 5 south, range 3 west.

The northwest quarter of section 21, township 5 south, range 3 west.

The south half of section 21, township 5 south, range 3 west.

The northeast quarter of section 23, township 5 south, range 3 west.

The northwest quarter of section 23, township 5 south, range 3 west.

The southeast quarter of section 23, township 5 south, range 3 west.

The southwest quarter of section 23, township 5 south, range 3 west.

The northeast quarter of the northeast quarter of section 25, township 5 south, range 3 west.

The northwest quarter of the northeast quarter of section 25, township 5 south, range 3 west.

The southeast quarter of the northeast quarter of section 25, township 5 south, range 3 west.

The southwest quarter of the northeast quarter of section 25, township 5 south, range 3 west.

The northwest quarter of section 25, township 5 south range 3 west.

The southeast quarter of section 25, township 5 south range 3 west.

The southwest quarter of section 25, township 5 south, range 3 west.

The northeast quarter of section 27, township 5 south, range 3 west.

The southeast quarter of section 27, township 5 south, range 3 west.

The northwest quarter of section 27, township 5 south, range 3 west.

The southwest quarter of section 27, township 5 south, range 3 west.

The north half of section 29, township 5 south, range 3 west.

The south half of section 29, township 5 south, range 3 west.

All of section 31, all of section 33 and all of section 35, township 5 south, range 3 west.

All of section 1, township 5 south, range 4 west.

The north half of section 3, township 5 south, range 4 west.

The south half of section 3, township 5 south, range 4 west.

All of section 5, township 5 south, range 4 west.

All of section 11, township 5 south, range 4 west.

The east half of the northeast quarter, the southwest quarter of the northeast quarter, the northwest quarter and the south half of section 15, township 5 south, range 4 west.

All of section 19, township 5 south, range 4 west.

All of sections 21 and 33, township 5 south, range 4 west.

The southeast quarter of section 25, township 5 south, range 4 west.

The southwest quarter of section 25, township 5 south, range 4 west.

All of section 29, township 5 south, range 4 west.

The west half of the northeast quarter, the northwest quarter of the southeast quarter and lots 1, 2, 3, 4, 5 and 6, section 31, township 5 south, range 4 west, and lots 1, 2 and 3, section 21, township 6 south, range 4 west.

The southwest quarter of the northeast quarter, the north half of the southeast quarter and the southeast quarter of the southeast half of section 7, township 5 south, range 5 west.

The north half of the northwest quarter of section 7, township 5 south, range 5 west.

The south half of the northwest quarter of section 7, township 5 south, range 5 west.

The northeast quarter of the southwest quarter of section 7, township 5 south, range 5 west.

The southwest quarter of the southeast quarter and the south half of the southwest quarter of section 7, township 5 south, range 5 west.

The northwest quarter of the southwest quarter of section 7, township 5 south, range 5 west.

All of sections 15 and 23, and the fractional north half of section 25, township 5 south, range 5 west.

The northeast quarter of section 17, township 5 south, range 5 west.

The southwest quarter of section 17, township 5 south, range 5 west.

The southeast quarter of section 19, township 5 south, range 5 west.

The northeast quarter of section 21, township 5 south, range 5 west.

The northwest quarter and the south half of section 21, township 5 south, range 5 west.

The northeast quarter of section 27, township 5 south, range 5 west.

The northwest quarter of section 27, township 5 south, range 5 west.

The southeast quarter of section 27, township 5 south, range 5 west.

The northwest quarter of the northwest quarter and lots 1, 2 and 3 of section 35, township 5 south, range 5 west.

The northeast quarter of section 1, township 5 south, range 6 west.

The south half of the southeast quarter of section 1, township 5 south, range 6 west.

The north half of the southeast quarter and the northwest quarter of section 1, township 5 south, range 6 west.

The southwest quarter of section 1, township 5 south, range 6 west.

The southeast quarter of the northwest quarter and lot 3, section 3, of township 5 south, range 6 west.

The west half of the northwest quarter and the south half of the southeast quarter of section 3, township 5 south, range 6 west.

The northeast quarter of the southeast quarter of section 3, township 5 south, range 6 west.

The northwest quarter of section 11, township 5 south, range 6 west.

The north half of the southeast quarter of section 11, township 5 south, range 6 west.

The south half of the southeast quarter of section 11, township 5 south, range 6 west.

The southwest quarter of section 11, township 5 south, range 6 west.

The east half of section 7, township 5 south, range 7 west.

The southeast quarter of the southwest quarter and lot 4 of section 7, township 5 south, range 7 west.

All of fractional section 19, township 5 south, range 7 west.

The southwest quarter of section 21, township 5 south, range 7 west.

The north half of the northeast quarter, the northeast quarter of the northwest quarter and lot 1, section 29, township 5 south, range 7 west.

The north half of the southeast quarter, the southeast quarter of the southeast quarter and lots 3 and 4 of section 29, township 5 south, range 7 west.

The northwest quarter of section 33, township 5 south, range 7 west.

The south half of the southeast quarter of section 33, township 5 south, range 7 west.

The southwest quarter of section 33, township 5 south, range 7 west.

All of fractional section 1, township 6 south, range 1 west.

The south half of the northeast quarter and lots one and two, of section 3, township 6 south, range 1 west.

The north half of the southwest quarter, and lots three, four, and five, of section 3, and the fractional northeast quarter of section 5, township 6 south, range 1 west.

The east half of the southeast quarter of section 3, township 6 south, range 1 west.

The west half of the southeast quarter of section 3, township 6 south, range 1 west.

The south half of the southwest quarter of section 3, township 6 south, range 1 west.

The northwest quarter and the west half of the southwest quarter of the northeast quarter of the southwest quarter, and lot 7 of section 5, township 6 south, range 1 west.

The west half of the southeast quarter and the southeast quarter of the southwest quarter, and lot 6 of section 5, township 6 south, range 1 west.

All of section 7, township 6 south, range 1 west.

All of section 9, township 6 south, range 1 west.

All of section 11, township 6 south, range 1 west.

The southwest quarter of the northwest quarter and the north half of the southwest quarter and the southwest quarter of the southwest half of section 13, township 6 south, range 1 west.

The north half of the northwest quarter and the southeast quarter of the northwest quarter and the east half of section 13, township 6 south, range 1 west.

The southeast quarter of the southwest quarter of section 13, township 6 south, range 1 west.

The north half of the northwest quarter and the east half of the southwest quarter and the east half of section 17, and the southwest quarter of the southeast quarter and the west half of section 21, township 6 south, range 1 west.

The south half of the northwest quarter of section 17, and the southeast quarter of section 19, township 6 south, range 1 west.

The west half of the southwest quarter of section 17, and the east half of the northeast quarter of section 19, township 6 south, range 1 west.

The west half and the west half of the northeast quarter of section 19, township 6 south, range 1 west.

The east half of the northeast quarter and the northwest quarter of the northeast quarter of section 21, township 6 south, range 1 west.

The southwest quarter of the northeast quarter and the northwest quarter of southeast quarter and the east half of the southeast quarter of section 21, township 6 south, range 1 west.

All of section 23, township 6 south, range 1 west.

All of section 25, township 6 south, range 1 west.

All of section 27 and the northwest quarter and the northwest quarter of the northeast quarter and the east half of the northeast quarter and the east half of the

southeast quarter, and the west half of the southwest quarter of section 33, township 6 south, range 1 west.

All of section 31, township 6 south, range 1 west.

The southwest quarter of the southeast quarter of section 33, township 6 south, range 1 west.

The east half and the east half of the northwest quarter of section 35, township 6 south, range 1 west.

The west half of the northwest quarter and the southwest quarter of section 35, township 6 south, range 1 west.

The northeast quarter of section 1, township 6 south, range 2 west.

The north half of the southeast quarter of section 1, township 6 south, range 2 west.

The south half of the southeast quarter of section 1, and the southeast quarter of the southeast quarter of section 11, township 6 south, range 2 west.

The northwest quarter of section 1, township 6 south, range 2 west.

The southwest quarter of section 1, township 6 south, range 2 west.

The northeast quarter of section 3, township 6 south, range 2 west.

The northwest quarter of section 3, township 6 south, range 2 west.

The southeast quarter of section 3, township 6 south, range 2 west.

The southwest quarter of section 5, township 6 south, range 2 west.

The northwest quarter of section 5, township 6 south, range 2 west.

The northeast quarter of section 7, township 6 south, range 2 west.

The east half of the northwest quarter of section 7, township 6 south, range 2 west.

The west half of the northwest quarter of section 7, township 6 south, range 2 west.

The north half of the southeast quarter and the north half of the southwest quarter of section 7, township 6 south, range 2 west.

The south half of the southeast quarter and the south half of the southwest quarter of section 7, township 6 south, range 2 west.

The west half of the northeast quarter of section 9, township 6 south, range 2 west.

The northwest quarter of section 9, township 2 south, range 6 west.

The southeast quarter of section 9, township 6 south, range 2 west.

The southwest quarter of section 9, township 6 south, range 2 west.

The north half and the southwest quarter and the northeast quarter of the southeast quarter, and the west half of the southeast quarter of section 11, township 6 south, range 2 west.

All of section 13, township 6 south, range 2 west.

The northeast quarter of section 15, township 6 south, range 2 west.

The north half of section 17, township 6 south, range 2 west.

The southeast quarter of section 17, township 6 south, range 2 west.

The southwest quarter of section 17, township 6 south, range 2 west.

The east half and the northwest quarter and the northeast quarter of the southwest quarter, and lot 3 of section 19, township 6 south, range 2 west.

The northeast quarter of section 21, township 6 south, range 2 west.

The northwest quarter of section 21, township 6 south, range 2 west.

The southeast quarter of section 21, township 6 south, range 2 west.

The southwest quarter of section 31, township 6 south, range 2 west.

All of section 23, township 6 south, range 2 west.

All of section 27, township 6 south, range 2 west.

The northeast quarter of section 29, township 6 south, range 2 west.

The northwest quarter of section 29, township 6 south, range 2 west.

The southeast quarter of section 29, township 6 south, range 2 west.

The southwest quarter of section 29, township 6 south, range 2 west.

The north half of section 31, township 6 south, range 2 west.

The southeast quarter of section 31, township 6 south, range 2 west.

The southwest quarter of section 31, township 6 south, range 2 west.

The north half of section 33, township 6 south, range 2 west.

The southeast quarter of section 33, township 6 south, range 2 west.

The southwest quarter of section 33, township 6 south, range 2 west.

The northeast quarter of section 1, township 6 south, range 3 west.

The west half of section 1, township 6 south, range 3 west.

The southeast quarter of section 1, township 6 south, range 3 west.

All of section 3, township 6 south, range 3 west.

The northwest quarter of section 5, township 6 south, range 3 west.

The northeast quarter and the south half of section 5, township 6 south, range 3 west.

All of section 7, township 6 south, range 3 west.

The northwest quarter of section 9, township 6 south, range 3 west.

The southeast quarter of section 9, township 6 south, range 3 west.

The southwest quarter of section 9, township 6 south, range 3 west.

The northeast quarter of section 9, township 6 south, range 3 west.

The northwest quarter of section 9, township 6 south, range 3 west.

The southeast quarter of section 9, township 6 south, range 3 west.

The southwest quarter of section 9, township 6 south, range 3 west.

The north half of section 11, township 6 south, range 3 west.

The southeast quarter and the north half of the southwest quarter and the southeast quarter of the southwest quarter of section 11, township 6 south, range 3 west.

All of section 13, township 6 south, range 3 west.

The south half of section 15, township 6 south, range 3 west.

The northeast quarter of section 15, township 6 south, range 3 west.

The northwest quarter of section 15, township 6 south, range 3 west.

All of section 17, township 6 south, range 3 west.

All of section 19, township 6 south, range 3 west.

The south half and the northwest quarter of section 21, township 6 south, range 3 west.

The northeast quarter of section 21, township 6 south, range 3 west.

The north half of section 23, township 6 south, range 3 west.

The southeast quarter of section 23, township 6 south, range 3 west.

The southwest quarter of section 23, township 6 south, range 3 west.

The west half of the southeast quarter and the northeast quarter of section 25, township 6 south, range 3 west.

The west half of section 25, township 6 south, range 3 west.

All of section 27, township 6 south, range 3 west.

All of section 29, township 6 south, range 3 west.

All of section 31, township 6 south, range 3 west.

All of fractional section 33, township 6 south, range 3 west.

All of section 35, township 6 south, range 3 west.

All of section 1, township 6 south, range 4 west.

The fractional north half of section 5, township 6 south, range 4 west.

The southeast quarter of section 5, township 6 south, range 4 west.

The fractional southwest quarter of section 5, and lots 1 and 2, section 7, township 6 south, range 4 west.

The northeast quarter and the east half of the northwest quarter and lots 2 and 3, section 9, township 6 south, range 4 west.

The northwest quarter of the northwest quarter and the southwest quarter of the northwest quarter and lot 1 of section 9, township 6 south, range 4 west.

The southeast quarter of section 9, township 6 south, range 4 west.

All of section 11, township 6 south, range 4 west.

The north half of the northwest quarter, and the southeast quarter of the northwest quarter of section 15, township 6 south, range 4 west.

The east half of the southwest quarter and the southwest quarter of the southeast quarter of section 15, township 6 south, range 4 west.

The southwest quarter of the northwest quarter and the west half of the southwest quarter of section 15, township 6 south, range 4 west.

All of fractional section 19, township 6 south, range 4 west.

The west half of the northeast quarter of section 23, township 6 south, range 4 west.

The east quarter of the northeast quarter of section 23, township 6 south, range 4 west.

The east half of the northwest quarter of section 23, township 6 south, range 4 west.

The southeast quarter of section 23, township 6 south, range 4 west.

The east half of the southwest quarter of section 23, township 6 south, range 4 west.

The west half of the southwest quarter of section 23, township 6 south, range 4 west.

All of fractional section 27, township 6 south, range 4 west.

All of fractional section 29, township 6 south, range 4 west.

All of fractional section 33, township 6 south, range 4 west.

Lots 1, 2, and 3 of section 35, township 6 south, range 4 west.

The northeast quarter of section 35, township 6 south, range 4 west.

Lots 5, 6, and 7 of section 35, township 6 south, range 4 west.

The west half of the southwest quarter of section 1, township 6 south, range 7 west.

Lots 1 and 2 of section 9, township 6 south, range 7 west.

The northeast quarter of section 11, township 6 south, range 7 west.

The south half of the northwest quarter and the fraction south half of section 11, township 6 south, range 7 west.

All of section 13, township 6 south, range 7 west.

Lot 1 of section 23, township 6 south, range 7 west.

All of fractional section 7, township 7 south, range 1 west.

All of fractional section 9, township 7 south, range 1 west.

Lot 1, section 13, township 7 south, range 1 west.

Lot 2 of section 13, township 7 south, range 1 west.

Lot 7 of section 13, township 7 south, range 1 west.

Lot 8 of section 13, township 7 south, range 1 west.

Lot 3 of section 13, township 7 south, range 1 west.

Lot 4 of section 13, township 7 south, range 1 west.

Lot 5 of section 13, township 7 south, range 1 west.

Lot 6 of section 13, township 7 south, range 1 west.

Lot 9 of section 13, township 7 south, range 1 west.

Lot 10 of section 13, township 7 south, range 1 west.

Lot 15 of section 13, township 7 south range 1 west.

Lot 16 of section 13, township 7 south, range 1 west.

Lot 11 of section 13, township 7 south, range 1 west.

Lot 12 of section 13, township 7 south, range 1 west.

Lot 13 of section 13, township 7 south, range 1 west.

Lot 14 of section 13, township 7 south, range 1 west.

All of fractional 15, township 7 south, range 1 west.

The south half of the northeast quarter of section 1, township 7 south, range 2 west.

The south half of the northwest quarter of section 1, township 7 south, range 2 west.

The north half of the northeast quarter of section 1, township 7 south, range 2 west.

The south half of section 1, township 7 south, range 2 west.

The north half of the northwest quarter of section 1, township 7 south, range 2 west.

The north half of section 3, township 7 south, range 2 west.

The south half of section 3, township 7 south, range 2 west.

The northeast quarter of section 5, township 7 south, range 2 west.

The northwest quarter of section 5, township 7 south, range 2 west.

The southeast quarter of section 5, township 7 south, range 2 west.

The southwest quarter of section 5, township 7 south, range 2 west.

The northeast quarter of section 7, township 7 south, range 2 west.

The west half of section 7, township 7 south, range 2 west.

The west half of the southeast quarter and the northeast quarter of the southeast quarter of section 7, township 7 south, range 2 west, and all of section 1, township 7 south, range 3 west.

The southeast quarter of the southeast quarter of section 7, township 7 south, range 2 west.

All of section 9, township 7 south, range 2 west.

All of section 11, township 7 south, range 2 west.

All of section 13, township 7 south, range 2 west.

All of section 15, township 7 south, range 2 west.

All of section 17, township 7 south, range 2 west.

The east half of section 19, township 7 south, range 2 west.

The west half of section 19, township 7 south, range 2 west.

The southeast quarter and the north half of section 29, township 7 south, range 2 west.

Fraction in section 33, township 7 south, range 2 west.

All of section 3, township 7 south, range 3 west.

Lot 1 of section 7, township 7 south, range 3 west.

The northwest quarter of section 11, township 7 south, range 3 west.

The northeast quarter of the northeast quarter and lots 1, 2, and 3 of section 5, township 8 south, range 1 west.

The north half of section 1, township 3 south, range 1 east.

The east half of the northwest quarter, and the east half of the southwest quarter of section 3, and the south half of section 15, township 3 south, range 1 east.

Lot 1 of section 5, township 3 south, range 1 east.

Lot 2 of the northeast quarter and lot 2 of the northwest quarter of section 5, township 3 south, range 1 east.

The southeast quarter of the northwest quarter and the east half of the southwest quarter and the southwest quarter of the southwest quarter of section 5, township 3 south, range 1 east.

The southwest quarter of the northwest quarter and the northwest quarter of the southwest quarter of section 5, township 3 south, range 1 east.

All of section 7, township 3 south, range 1 east.

The north half of the northeast quarter of section 9, township 3 south, range 1 east.

The north half of the northwest quarter of section 9, township 3 south, range 1 east.

The south half of the northeast quarter and the south half of the northwest quarter and the north half of the southeast quarter and the north half of the southwest quarter of section 9, township 3 south, range 1 east.

The south half of the southeast quarter and the south half of the southwest quarter of section 9, township 3 south, range 1 east.

The west half of the northwest quarter of section 15, township 3 south, range 1 east.

The east half of the northwest quarter of section 15, township 3 south, range 1 east.

The east half of the northeast quarter of section 15, township 3 south, range 1 east.

The southwest quarter of the northeast quarter of section 15, township 3 south, range 1 east.

The northwest quarter of the northeast quarter of section 15, township 3 south, range 1 east.

The north half of the southeast quarter of section 17, township 3 south, range 1 east.

The southwest quarter of section 17, township 3 south, range 1 east.

The northeast quarter of section 19, township 3 south, range 1 east.

The northwest quarter of section 21, township 3 south, range 1 east.

The east half of the southeast quarter of section 5, township 3 south, range 2 east.

The west half of the southeast quarter of section 5, township 3 south, range 2 east.

The east half of the southwest quarter of section 5, township 3 south, range 2 east.

The west half of the southwest quarter of section 5, township 3 south, range 2 east.

The north half of the northeast quarter of section 7, township 3 south, range 2 east.

The south half of the northeast quarter of section 7, township 3 south, range 2 east.

The north half of the southeast quarter of section 7, township 3 south, range 2 east.

The south half of the southeast quarter of section 7, township 3 south, range 2 east.

The north half of the northeast quarter of section 15, township 3 south, range 2 east.

The south half of the northeast quarter of section 15, township 3 south, range 2 east.

The north half of the northwest quarter of section 15, township 3 south, range 2 east.

The south half of the northwest quarter of section 15, township 3 south, range 2 east.

The north half of the southeast quarter of section 15, township 3 south, range 2 east.

The south half of the southeast quarter of section 15, township 3 south, range 2 east.

The north half of the southwest quarter of section 15, township 3 south, range 2 east.

The south half of the southwest quarter of section 15, township 3 south, range 2 east.

The northeast quarter of section 17, township 3 south, range 2 east.

The northwest quarter of section 17, township 3 south, range 2 east.

The southeast quarter of section 17, township 3 south, range 2 east.

The southwest quarter of section 17, township 3 south, range 2 east.

The north half of the northwest quarter of section 21, township 3 south, range 2 east.

The northwest quarter of section 23, township 3 south, range 2 east.

All of section 19, township 4 south, range 2 east.

All of section 23, township 4 south, range 2 east.

All of section 35, township 4 south, range 2 east.

The northeast quarter of the southeast quarter of section 3, township 4 south, range 4 east.

The northwest quarter of the southeast quarter of section 3, township 4 south, range 4 east.

The southeast quarter of the southeast quarter of section 3, township 4 south, range 4 east.

The southwest quarter of the southeast quarter of section 3, township 4 south, range 4 east.

The north half of the northwest quarter and the southeast quarter of the northwest quarter and the northeast quarter of the southeast quarter and the northeast quarter of section 11, township 4 south, range 4 east.

The southwest quarter of the northwest quarter of section 11, township 4 south, range 4 east.

The southeast quarter of the southeast quarter of section 11, township 4 south, range 4 east.

The northwest quarter of the southeast quarter of section 11, township 4 south, range 4 east.

The southwest quarter of the southeast quarter of section 11, township 4 south, range 4 east.

The northwest quarter of the southwest quarter of section 11, township 4 south, range 4 east.

The southwest quarter of the southwest quarter of section 11, township 4 south, range 4 east.

The northeast quarter of the southwest quarter of section 11, township 4 south, range 4 east.

The southeast quarter of the southwest quarter of section 11, township 4 south, range 4 east.

The northeast quarter of section 13, township 4 south, range 4 east.

The northwest quarter of section 13, township 4 south, range 4 east.

The southeast quarter of section 13, township 4 south, range 4 east.

The southwest quarter of section 13, township 4 south, range 4 east.

The northeast quarter of section 15, township 4 south, range 4 east.

The southeast quarter of section 15, township 4 south, range 4 east.

The northeast quarter of section 23, township 4 south, range 4 east.

The northwest quarter of section 23, township 4 south, range 4 east.

The southeast quarter of section 23, township 4 south, range 4 east.

The southwest quarter of section 23, township 4 south, range 4 east.

The north half of the northeast quarter of section 25, township 4 south, range 4 east.

The northwest quarter of section 25, township 4 south, range 4 east.

The southwest quarter of section 25, township 4 south, range 4 east.

All of section 35, township 4 south, range 4 east.

The northeast quarter of section 19, township 4 south, range 5 east.

The northwest quarter of section 19, township 4 south, range 5 east.

The southeast quarter of section 19, township 4 south, range 5 east.

The southwest quarter of section 19, township 4 south, range 5 east.

The northeast quarter of section 29, township 4 south, range 5 east.

The northwest quarter of section 29, township 4 south, range 5 east.

The southeast quarter of section 29, township 4 south, range 5 east.

The southwest quarter of section 29, township 4 south, range 5 east.

The northeast quarter of the northeast quarter of section 33, township 4 south, range 5 east.

The northwest quarter of the northeast quarter of section 33, township 4 south, range 5 east.

The southeast quarter of the northeast quarter of section 33, township 4 south, range 5 east.

The southwest quarter of the northeast quarter of section 33, township 4 south, range 5 east.

The northeast quarter of the northwest quarter of section 33, township 4 south, range 5 east.

The southeast quarter of the northwest quarter of section 33, township 4 south, range 5 east.

The northwest quarter of section 13, township 5 south, range 1 east.

The east half of section 13, township 5 south, range 1 east.

The northeast quarter of the northeast quarter of section 15, township 5 south, range 1 east.

The south half of section 15, township 5 south, range 1 east.

All of section 19, township 5 south, range 1 east.

The west half of the southwest quarter of the southwest quarter of section 21, township 5 south, range 1 east.

All of section 27, township 5 south, range 1 east.

The east half of section 1, township 5 south, range 2 east.

The southwest quarter of section 1, township 5 south, range 2 east.

The northwest quarter of section 1, township 5 south, range 2 east.

The north half of section 11, township 5 south, range 2 east.

The northeast quarter and the south half of section 13, township 5 south, range 2 east.

All of section 17, township 5 south, range 2 east.

The northeast quarter of section 19, township 5 south, range 2 east.

All of section 25, township 5 south, range 2 east.

All of section 5, township 5 south, range 2 east.

The southeast quarter of section 7, township 5 south, range 3 east.

The southwest quarter of section 7, township 5 south, range 3 east.

The southwest quarter of section 15; all of section 19; the west half of section 27; all of sections 29, 31, and 33, township 5 south, range 3 east.

All of section 21, township 5 south, range 3 east.

The northeast quarter of section 9, township 5 south, range 7 east.

The southwest quarter of section 13, township 5 south, range 7 east.

The northeast quarter of section 15, township 5 south, range 7 east.

The northwest quarter of section 15, township 5 south, range 7 east.

The southeast quarter of section 15, township 5 south, range 7 east.

The southwest quarter of section 15, township 5 south, range 7 east.

The northeast quarter of section 23, township 5 south, range 7 east.

The southeast quarter of section 23, township 5 south, range 7 east.

The northwest quarter of section 23, township 5 south, range 7 east.

The southwest quarter of section 23, township 5 south, range 7 east.

The north half of section 25, township 5 south, range 7 east.

The south half of section 25, township 5 south, range 7 east.

The northeast quarter of section 35, township 5 south, range 7 east.

The southeast quarter of section 35, township 5 south, range 7 east.

The southwest quarter of section 35, township 5 south, range 7 east.

The west half of the southeast quarter and the west half of section 29, township 5 south, range 8 east.

The northeast quarter of section 31, township 5 south, range 8 east.

The west half of section 31, township 5 south, range 8 east.

All of section 7, township 6 south, range 1 east.

All of section 3, the northeast quarter of section 5, all of sections 7, 9, 15, and 23, the west half of the southwest quarter of section 11, the west half of section 15, and the northeast quarter of section 35, township 6 south, range 3 east.

All of section 5, township 6 south, range 8 east.

All of section 7, township 6 south, range 8 east.

All of section 9, township 6 south, range 8 east.

All of section 17, townshp 6 south, range 8 east.

All of section 21, township 6 south, range 8 east.

The southeast quarter of section 27, township 6 south, range 8 east.

The north half and the southwest quarter of the southeast quarter of section 1, township 7 south, range 1 east.

All of section 17, township 7 south, range 1 east.

The northeast quarter of section 19, township 7 south, range 1 east.

The northwest quarter of section 19, township 7 south, range 1 east.

The southeast quarter of section 19, township 7 south, range 1 east.

The southwest quarter of section 19, township 7 south, range 1 east.

The northeast quarter of the southwest quarter, the west half of the southwest quarter, the southeast quarter and the north half of section 29, township 7 south, range 2 east.

All of section 31, township 7 south, range 2 east.

The northwest quarter of section 13, township 7 south, range 3 east.

The southeast quarter of section 13, township 7 south, range 3 east.

The southwest quarter of section 13, township 7 south, range 3 east.

The northeast quarter of section 1, township 7 south, range 8 east.

The northwest quarter of section 1, township 7 south, range 8 east.

The southeast quarter of section 1, township 7 south, range 8 east.

The southwest quarter of section 1, township 7 south, range 8 east.

The east half of section 9, township 8 south, range 1 east.

All of section 11, townshp 8 south, range 1 east.

All San Bernardino base and meridian, California.

I, Wm. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court January 7, 1898, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 675 (Nos. 587, 675, and 662 consolidated), and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this 24th day of August, A. D. 1899.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675. Consolidated. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Certified copy of order dismissing bill of complaint as to certain lands. Filed August 24, 1899. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Judicial Circuit, in and for the Southern District of California.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

No. 675.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

No. 587.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY,
Defendant.
No. 662.

Enrollment.

The complainants filed herein their certain bill of complaint, which is hereunto annexed, on the 31st day of January, 1894, against the Southern Pacific Railroad Company, D. O. Mills, and Gerrit L. Lansing, trustees, and the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, the cause wherein said bill of complaint was filed being numbered 587 on the docket of this court.

Six subpoenas to appear and answer the said bill of complaint in said cause number 587 were thereafter, on the 7th day of February, 1894, issued at the request of complainants for all of the defendants, returnable on the 2d day of April, 1894, two of which said subpoenas are hereto annexed.

The appearance of Joseph H. Call, Esq., special assistant United States attorney, on behalf of complainants, was entered in said cause number 587 on the 31st day of March, 1894.

The defendant the Southern Pacific Railroad Company appeared specially herein in said cause number 587, for the purpose of objecting to the jurisdiction of the Court, on the 4th day of May, 1894, by Joseph D. Redding, Esq., its solicitor, and on said 4th day of May, 1894, filed herein its special appearance and plea in abatement, which is hereto annexed.

The defendant Gerrit L. Lansing appeared specially herein, in said cause number 587, for the purpose of objecting to the jurisdiction of the Court, on the 4th day of May, 1894, by Joseph D. Redding, Esq., his solicitor, and on said 4th day of May, 1894, filed herein his special appearance and plea in abatement which is hereto annexed.

The defendant Southern Pacific Company appeared specially herein, in said cause number 587, for the purpose of objecting to the jurisdiction of the Court, on the 4th day of May, 1894, by Joseph D. Redding, Esq., its solicitor, and on said 4th day of May, 1894, filed herein its special appearance and plea in abatement, which is hereto annexed.

On the 7th day of May, 1894, the Court made and entered herein, in said cause No. 587, an order directing the defendants, the Central Trust Company of New York, the Colorado River Irrigation Company, and D. O. Mills, to appear, answer, or demur in said suit, a copy of which order is hereto annexed.

On the 23d day of June, 1894, the special appearance and plea in abatement of the Southern Pacific Company was filed herein in said cause No. 587, and is hereto annexed.

On the 11th day of October, 1894, the Court made and entered herein, in said cause No. 587, an order overruling the plea of the defendant Southern Pacific Railroad Company, a copy of which order is hereto annexed.

On the 11th day of October, 1894, the Court made and entered herein, in said cause No. 587, an order overruling the plea of the defendant Southern Pacific Railroad Company of Kentucky, a copy of which order is hereto annexed.

On the 11th day of October, 1894, the Court made and entered herein, in said cause No. 587, an order overruling the plea of the defendant Gerrit L. Lansing, a copy of which order is hereto annexed.

On the 11th day of October, 1894, the Court made and entered herein, in said cause No. 587, an order that complainants have leave to file herein their amended bill of complaint, a copy of which order is hereto annexed.

The amended bill of said complainants was filed herein in said cause No. 587, on the 11th day of October, 1894, and is hereto annexed.

The joint and several answers of the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, Southern Pacific Company of Kentucky, and the Colorado River Irrigation Company, to the amended bill of the complainants, was filed herein in said cause No. 587 on the 31st day of December, 1894, and is hereto annexed.

The replication of complainants to defendants' answer was filed herein in said cause No. 587 on the 11th day of January, 1895, and is hereto annexed.

Exhibit "A" to defendants' answer, being trust mortgage of Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees, dated April 1, 1875, and Exhibit "B" to defendants' answer, being deed of trust, Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York, of the third part, dated August 25, 1888, were filed herein in said cause No. 587 on the 22d day of January, 1895, and are hereto annexed.

The complainants filed herein their certain bill of complaint, which is hereunto annexed, on the 11th day of October, 1895, against the Southern Pacific Railroad Company, the cause wherein said bill of complaint was filed, being numbered 662 on the docket of this court.

A subpoena to appear and answer the said bill of complaint in said cause No. 662 was thereupon, on the 11th day of October, 1895, issued, returnable on the 4th day of November, 1895, which is hereto annexed.

The defendant the Southern Pacific Railroad Company appeared herein in said cause No. 662, on the 21st day of October, 1895, by William Singer, Jr., Esq., its solicitor.

The appearance of William Singer, Jr., Esq., as one of the solicitors for defendants in said cause No. 587 was entered on the 21st day of October, 1895.

The answer of the Southern Pacific Railroad Company, defendant, to the bill of complaint in said cause No. 662, was filed herein in said cause, on the 15th day of January, 1896, and is hereto annexed.

The complainants filed herein their certain bill of complaint, which is hereunto annexed, on the 29th day of January, 1896, against the Southern Pacific Railroad

Company, D. O. Mills and Gerrit L. Lansing, trustees, and the Central Trust Company of New York, the Southern Pacific Company of Kentucky, and Colorado River Irrigation Company, the cause wherein said bill of complaint was filed being numbered 675 on the docket of this court.

A subpoena requiring the Colorado River Irrigation Company to appear and answer the said bill of complaint in said cause No. 675 was thereupon, on said 30th day of January, 1896, issued, returnable on the 2d day of March, 1896, which is hereto annexed.

A subpoena requiring the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, and the Central Trust Company of New York, and the Southern Pacific Company of Kentucky to appear and answer the said bill of complaint in said cause No. 675 was thereupon, on said 30th day of January, 1896, issued to the marshal of the United States for the Northern District of California, returnable on the 2d day of March, 1896, which is hereto annexed.

On the 10th day of February, 1896, the Court made and entered herein in said cause No. 675, an order directing the defendants D. O. Mills, trustee, and the Central Trust Company of New York, and the Southern Pacific Company of Kentucky, to appear, plead, answer, or demur in said suit No. 675, a copy of which order is hereto annexed.

The replication of complainants to the answer of defendant in said cause No. 675 was filed herein in said cause on the 20th day of February, 1896, and is hereto annexed.

On the 21st day of February, 1896, the complainants filed herein, in said cause No. 675, their amended bill of complaint, which is hereto annexed.

The defendant the Central Trust Company of New York appeared herein in said cause No. 675, on the 26th day of February, 1896, by Charles P. Eels, Esq., and Page, McCutchen & Eels, its solicitors.

The defendant Colorado River Irrigation Company appeared herein, in said cause No. 675, on the 29th day of February, 1896, by William H. H. Hart, Esq., its solicitor.

The defendant D. O. Mills, trustee, appeared herein, in said cause No. 675 on the 29th day of February, 1896, by William Singer, Jr., Esq., its solicitor.

The defendant Southern Pacific Railroad Company appeared herein, in said cause No. 675, on the 29th day of February, 1896, by William Singer, Jr., Esq., its solicitor.

The Southern Pacific Company of Kentucky appeared herein, in said cause No. 675, on the 29th day of February, 1896, by William Singer, Jr., Esq., its solicitor.

On the 14th day of March, 1896, the Court made and entered an order herein in said cause No. 587, consolidating said cause with said No. 675, a copy of which order is hereto annexed.

On the 14th day of March, 1896, the Court made and entered an order herein, in said cause No. 662, consolidating said cause with said cause No. 675, a copy of which order is hereto annexed.

On the 14th day of March, 1896, the Court made and entered an order herein, in said cause No. 675, consolidating with said cause causes No. 587 and No. 662, a copy of which order is hereto annexed.

The amended bill of complainants in said consolidated cause No. 675 was filed herein on the 16th day of March, 1896, and is hereto annexed.

The further amended bill of complainants in said consolidated cause No. 675 was filed herein on the 13th day of April, 1896, and is hereto annexed.

Complainants' amendment to their amended bill of complaint was filed herein on the 14th day of May, 1896, and is hereto annexed.

Complainants' amended and supplemental bill of complaint was filed herein on the 26th day of May, 1896, and is hereto annexed.

The joint and several answer of the defendants Southern Pacific Railroad Comany, D. O. Mills, trustee, Central Trust Company of New York, Southern Pacific Company of Kentucky, and Colorado River Irrigation Company to complainants' amended bill of complaint, and Exhibit "A" to said answer, were filed herein on the 23d day of July, 1896, and are hereto annexed.

On the 3d day of August, 1896, the Court made and entered herein an order dismissing the bill of complaint, without prejudice, as to certain lands in said order described, a copy of which order is hereto annexed.

On the 3d day of August, 1896, the Court made and entered an order herein substituting Homer S. King, trustee, as party defendant in the place and stead of Gerrit L. Lansing, trustee, deceased, a copy of which is hereto annexed.

On the 31st day of August, 1896, the Court made and entered an order herein that the answer of the other de-

fendants be considered and treated as the answer of Homer S. King, trustee, a copy of which order is hereto annexed.

The replication of complainants to defendants' answer was filed herein on the 7th day of Septemebr, 1896, and is hereto annexed.

On the 28th day of June, 1897, the Court made and entered an order herein dismissing said bill of complaint, without prejudice, as to those lands theretofore withdrawn for or embraced within any Indian or military reservation, a copy of which order is hereto annexed.

On the 7th day of January, 1898, the Court made and entered an order herein dismissing the bill of complaint, without prejudice, as to certain lands in said order described, a copy of which order is hereto annexed.

The testimony taken in said cause on behalf of the respective parties was duly filed in the clerk's office of said Circuit Court.

On the 3d day of March, 1898, being a day in the January term, A. D. 1898, of said Circuit Court; present, the Honorable Erskine M. Ross, Circuit Judge, said cause came on for hearing before the Court upon the pleadings and proofs filed in said cause, whereupon said cause was submitted to the Court for its consideration and decision upon the said pleadings and proofs, and upon briefs which were thereafter filed on behalf of the respective parties by counsel.

On the 10th day of April, 1899, the Court made and entered an order herein for the entry of a decree in accordance with the views expressed in the Court's opinion, filed in said cause on said 10th day of April, 1899; and on the

24th day of August, 1899, a final decree, accordingly, was signed, filed, entered, and recorded herein, and is hereto annexed.

In the Circuit Court of the United States, Southern District of California, Ninth Circuit.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
} No. 675.

THE UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
} No. 587.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

No. 662.

Decree.

These causes coming on for final decree this 24th day of August, A. D. 1899, in open court, and the United States having appeared by Mr. Joseph H. Call, special assistant United States attorney, and the defendants having appeared by Mr. William Herrin and Mr. William Singer, Jr., their counsel and attorney, respectively, and defendant the Colorado River Irrigation Company having also appeared by Mr. William H. H. Hart, its counsel and attorney, and by consent of parties and order of Court said causes having been consolidated and a single bill of complaint having been filed in such consolidated causes, and issue having been joined thereon, and the testimony having been taken, and by consent of parties and order of Court, Homer S. King, trustee, having been substituted in said causes Nos. 675 and 587 for Gerrit L. Lansing, trustee, lately deceased, and the said causes as consolidated having been duly argued and submitted, and the Court being now fully advised in the premises, it is by the Court now ordered, adjudged and decreed:

First.

That the United States of America is the owner, by title in fee simple absolute, unincumbered, of the following described lands, and defendants the Southern Pacific Railroad Company, the Central Trust Company of New York, the Southern Pacific Company of Kentucky, the Colorado River Irrigation Company, and D. O. Mills and Homer S. King, trustees of a certain mortgage or deed of trust, dated April 1, 1875, be, and they each hereby are, forever enjoined and restrained from having or claiming any right, title, interest, or incumbrance in, upon, or to any of said lands, and the title to said lands is hereby quieted in the United States, said lands being described as follows, to wit:

All of the sections and parts of sections of land in the State of California, surveyed and unsurveyed, designated by odd numbers, within twenty miles on each side of the line of route of the Texas Pacific Railroad Company, from a point near Marshall, in the State of Texas, westwardly, to the bay of San Diego, as designated and established by the map of general route filed by said Texas Pacific Railroad Company in the general landoffice and in the department of the interior on the fifteenth day of October, in the year one thousand eight hundred and seventy-one, a copy of which said map was introduced in evidence in this cause, and is now on file herein, and to which map reference is hereby made, in so far as said lands, or any part thereof, are situated within thirty miles on either side of the designated line of route of the Southern Pacific Railroad Company between the Colorado river, at a

point near Fort Yuma and Los Angeles, California, as designated and established by said Southern Pacific Railroad Company by its map designating such line of railroad as located and constructed, and the map designating the fifth section of said railroad through the said lands having been so filed in the interior department on the thirty-first day of January, in the year one thousand eight hundred and seventy-eight.

Provided, that this decree shall in no wise affect the right of way, station grounds, buildings workshops, depots, machineshops, switches, sidetracks, turntables, or water stations now properly appropriated and used by the defendants, Southern Pacific Railroad Company, or Southern Pacific Company, over or upon any of lands in this decree described.

Second.

It is further ordered, adjudged, and decreed that the bill of complaint be, and hereby is, dismissed as to the following described lands, which have been patented by complainant to the defendant, the Southern Pacific Railroad Company, to wit:

The west half of section 3, township 1 north, range 2 west.

The east half of the southeast quarter of section 5, township 1 north, range 2 west.

All of section 15, township 1 north, range 3 west.

The southeast quarter of section 21, township 1 north, range 3 west.

The southwest quarter of section 23, township 1 north, range 3 west.

All of section 25, township 1 north, range 3 west.

The southeast quarter of section 27, township 1 north, range 3 west.

The west half of the southwest quarter of section 1, township 2 north, range 1 west.

All of section 3, township 2 north, range 1 west.

The southeast quarter of section 9, township 2 north, range 1 west.

All of section 11, township 2 north, range 1 west.

The northeast quarter of section 15, township 2 north, range 1 west.

The northeast quarter of section 25, township 2 north, range 1 west.

The east half of the northeast quarter of section 1, township 2, north, range 2 west.

All of section 25, township 2 north, range 2 west.

The northwest quarter, and the north half of the southeast quarter of section 29, township 2 north, range 2 west.

All of section 33, township 2 north, range 2 west.

The northwest quarter and the east half of section 33, township 1 north, range 9 east.

The west half of the southwest quarter of section 7, township 2 north, range 1 east (lot 2 of the southwest quarter) S. P.

The west half of the southwest quarter of section 11, township 2 north, range 1 east.

The north half of section 23, township 2 north, range 1 east.

The east half, west half of the southwest quarter, southeast quarter of the southwest quarter of section 25, township 2 north, range 1 east.

All of fractional section 3, township 2 north, range 2 east.

All of section 5, township 2 north, range 2 east.

The northeast quarter, north half of the southeast quarter, and the northeast quarter of the southwest quarter of section 7, township 2 north, range 2 east.

The northwest quarter of the southwest quarter of section 7, township 2 north, range 2 east (north half of lot 2 of the southwest quarter) S. P.

All of section 9, township 2 north, range 2 east.

The north half of section 11, township 2 north, range 2 east.

All of section 15, township 2 north, range 2 east.

All of section 17, township 2 north, range 2 east.

All of section 19, township 2 north, range 2 east.

The north half of the northeast quarter; northeast quarter of the northwest quarter; south half of the southeast quarter, and south half of the southwest quarter of section 21, township 2 north, range 2 east.

All of section 27, township 2 north, range 2 east.

All of section 29, township 2 north, range 2 east.

All of section 31, township 3 north, range 2 east.

The northeast quarter of section 29, township 1 south, range 1 west.

All of section 5, township 1 south, range 2 west.

The east half of the southeast quarter of section 23, township 1 south, range 2 west.

The northeast quarter of the northwest quarter, and the south half of the northwest quarter of section 25, township 1 south, range 2 west.

All of section 27, township 1 south, range 2 west.

The east half of section 11, township 1 south, range 3 west.

The south half of section 31, township 1 south, range 5 west.

The north half of the northeast quarter and the northwest quarter of section 29, township 2 south, range 1 west.

Lots 1 and 2 of section 5, township 2 south range 2 west.

Lots 1, 2, 3 and 4 of section 9, township 2 south, range 2 west.

The south half of section 13, township 2 south, range 2 west.

The south half of section 15, township 2 south, range 2 west.

The north half of the northeast quarter; northeast quarter of the northwest quarter; south half of the southeast quarter; southeast quarter of the southwest quarter, and lots 1 and 2 of the southwest quarter of section 19, township 2 south, range 2 west.

The north half of the southwest quarter; lots 1 and 2 of the southeast quarter; northwest quarter of the southeast quarter, and north half of section 21, township 2 south, range 2 west.

The east half of the northwest quarter, and the southwest quarter of the northwest quarter of section 23, township 2 south, range 2 west.

The southwest quarter of section 31, township 2 south, range 2 west.

All of section 19, township 2 south, range 3 west.

All of section 23, township 2 south, range 3 west.

The northwest quarter, and the east half of section 29, township 2 south range 3 west.

The northwest quarter of the southeast quarter; south half of the southeast quarter, and the southwest quarter of section 3, township 2 south, range 4 west.

All of section 13, township 2 south, range 4 west.

All of section 15, township 2 south, range 4 west.

Al of section 27, township 2 south, range 4 west.

The south half of section 7, township 3 south, range 1 west.

All of section 17, township 3 south, range 1 west.

All of section 21, township 3 south, range 1 west.

The west half of section 27, township 3 south, range 1 west.

All of section 29, township 3 south, range 1 west.

Lots 1, 2, 3, 4 and 5; the northwest quarter of the southwest quarter, and the south half of the southwest quarter of section 1, township 3 south, range 2 west.

The northeast quarter of section 3, township 3 south, range 2 west.

The southwest quarter of section 5, township 3 south, range 2 west.

The southeast quarter of section 9, township 3 south, range 2 west.

All of section 11, township 3 south, range 2 west, except the northwest quarter.

All of section 13, township 3 south, range 2 west.

Lot 1 in the northeast quarter of section 27, township 3 south, range 2 west.

The west half of the southeast quarter; southwest quarter, and north half of section 5, township 3 south, range 4 west.

All of section 7, township 3 south, range 4 west.

The south half of section 9, township 3 south, range 4 west.

The southwest quarter of section 35, township 3 south, range 4 west.

The northwest quarter and the south half of section 19, township 3 south, range 7 west.

Lots 1, 2, 3, 4, 5 and 6 of section 1, township 4 south, range 1 west.

Lots 2, 3, 4, 5, 6 and 7 of section 3, township 4 south, range 1 west.

Lots 3, 4, 5, 6 and 7, and the southeast quarter of the northwest quarter of section 5, township 4 south, range 1 west.

The west half of section 19, township 4 south, range 1 west.

Lot 5 in the northeast quarter; lot 2 in the northwest quarter of section 23, township 4 south, range 1 west.

All of section 23, township 4 south, range 2 west.

Lots 3, 4, 5, 6, and 7 of section 25, township 4 south, range 2 west.

The southeast quarter of section 27, township 4 south, range 2 west.

All of section 31, township 4 south, range 2 west.

All of section 35, township 4 south, range 2 west.

The east half of section 3, township 4 south, range 4 west.

The north half of the northeast quarter, and the southwest quarter of section 9, township 4 south, range 4 west.

The east half of section 15, township 4 south, range 4 west.

All of section 23, township 4 south, range 4 west.

The north half of the northeast quarter and the north half of the northwest quarter of section 33, township 4 south, range 4 west.

The southeast quarter of section 35, township 4 south, range 4 west.

The west half of the southeast quarter and west half of section 21, township 4 south, range 6 west.

The southeast quarter and lots 1, 2 and 3 of section 35, township 5 south, range 1 west.

The southeast quarter of section 3, township 5 south, range 2 west.

All of section 5, township 5 south, range 2 west.

All of section 9, township 5 south, range 2 west.

The north half of the southeast quarter and north half of section 21, township 5 south, range 2 west.

The southeast quarter of the southwest quarter of section 31, township 5 south, range 2 west.

The south half of section 35, township 5 south, range 2 west.

The south half of the northwest quarter of section 11, township 5 south, range 3 west.

The east half of section 13, township 5 south, range 3 west.

The southeast quarter of section 7, township 5 south, range 4 west.

The southwest quarter of section 23, township 5 south, range 4 west.

The west half of the northeast quarter and the northwest quarter of section 25, township 5 south, range 4 west.

All of section 27, township 5 south, range 4 west.

The east half of the northeast quarter and the east half of the southeast quarter of section 31, township 5 south, range 4 west.

The east half of the southeast quarter; west half of the southwest quarter and the north half of section 35, township 5 south, range 4 west.

The north half of the southwest quarter; southeast quarter and north half of section 1, township 5 south, range 5 west.

The south half of the southwest quarter of section 1, township 5 south, range 5 west.

The southeast quarter and the north half of section 3, township 5 south, range 5 west.

The southwest quarter of section 3, township 5 south, range 5 west.

The south half of section 5, township 5 south, range 5 west.

The north half of section 5, township 5 south, range 5 west.

The north half of the northeast quarter and the southeast quarter of the northeast quarter of section 7, township 5 south, range 5 west.

All of section 9, township 5 south, range 5 west.

The south half of section 11, township 5 south, range 5 west.

The north half of section 11, township 5 south, range 5 west.

All of section 13, township 5 south, range 5 west.

The northwest quarter and the southeast quarter of section 17, township 5 south, range 5 west.

The northeast quarter of section 19, township 5 south, range 5 west.

The west half of section 19, township 5 south, range 5 west.

Lots 3, 4, 5 and 6 and the northeast quarter of the southeast quarter of section 25, township 5 south, range 5 west.

The northeast quarter of section 29, township 5 south, range 5 west.

The northwest quarter and the south half of section 29, township 5 south, range 5 west.

All of section 31, township 5 south, range 5 west.

All of section 33, township 5 south, range 5 west.

The northeast quarter of section 11, township 5 south, range 6 west.

The northeast quarter of section 13, township 5 south, range 6 west.

Lots 1, 2 and 3; east half of the northwest quarter and the northeast quarter of the southwest quarter of section 7, township 5 south, range 7 west.

The west half of section 17, township 5 south, range 7 west.

The north half of the southeast quarter and the northeast quarter of section 33, township 5 south, range 7 west.

All of section 15, township 6 south, range 1 west.

All of section 29, township 6 south, range 1 west.

The southeast quarter of section 5, township 6 south, range 2 west.

The south half of the northwest quarter; southeast quarter and the southwest quarter of section 15, township 6 south, range 2 west.

All of section 25, township 6 south, range 2 west.

All of section 35, township 6 south, range 2 west.

All of section 3, township 6 south, range 4 west.

The northeast quarter of the northeast quarter; south half of the northeast quarter; west half of the northwest quarter; southeast quarter; west half of the southwest quarter; southeast quarter of the southwest quarter of section 13, township 6 south, range 4 west.

The northeast quarter; north half of the southeast quarter; and the southeast quarter of the southeast quarter of section 15, township 6 south, range 4 west.

The west half of the northwest quarter of section 23, township 6 south, range 4 west.

All of section 25, township 6 south, range 4 west.

All of section 31, township 6 south, range 4 west.

The fractional west half and lot 6 in the southeast quarter of section 3, township 6 south, range 5 west.

All of section 5, township 6 south, range 5 west.

All of section 7, township 6 south, range 5 west.

All of section 9, township 6 south, range 5 west.

The southwest quarter of the northeast quarter of section 15, township 6 south, range 5 west.

The south half of the southeast quarter and the south-

west quarter of section 15, township 6 south, range 5 west.

All of section 17, township 6 south, range 5 west.

The north half of the southeast quarter; north half of the southwest quarter and the north half of section 19, township 6 south, range 5 west.

All of section 21, township 6 south, range 5 west.

The south half of the southeast quarter; southwest quarter and north half of section 23, township 6 south, range 5 west.

The northwest quarter and east half of section 25, township 6 south, range 5 west.

All of section 27, township 6 south, range 5 west.

The northeast quarter of section 29, township 6 south, range 5 west.

The north half of the northeast quarter of section 33, township 6 south, range 5 west.

The east half of the southeast quarter northwest quarter of the southeast quarter; north half of the southwest quarter and north half of section 35, township 6 south, range 5 west.

The east half of the southwest quarter; southeast quarter and north half of section 1, township 6 south, range 7 west.

All of section 3, township 6 south, range 7 west.

Lots 3 and 4 of section 9, township 6 south, range 7 west.

The north half of the northeast quarter of section 9, township 6 south, range 7 west.

The north half of the northwest quarter of section 11, township 6 south, range 7 west.

All of section 1, township 7 south, range 1 west.

All of section 3, township 7 south, range 1 west.

All of section 5, township 7 south, range 1 west.

All of section 11, township 7 south, range 1 west.

All of fractional section 17, township 7 south, range 1 west.

Lots 1, 2, 3 and 4 and the east half of the southeast quarter of section 21, township 7 south, range 1 west.

All of section 23, township 7 south, range 1 west.

All of section 25, township 7 south, range 1 west.

All of section 27, township 7 south, range 1 west.

All of section 33, township 7 south, range 1 west.

All of section 35, township 7 south, range 1 west.

All of section 21, township 7 south, range 2 west.

Lots 1, 2 and 3 of section 5, township 7 south, range 3 west.

The fractional southwest quarter and the east half of section 11, township 7 south, range 3 west.

All of fractional section 13, township 7 south, range 3 west.

All of fractional section 1, township 8 south, range 1 west.

Lots 1, 2, 3 and 4 and north half of section 3, township 8 south, range 1 west.

All of section 11, township 3 south, range 1 east.

The west half of section 7, township 3 south, range 2 east.

The north half of section 9, township 3 south, range 2 east.

The south half of the northwest quarter of section 21, township 3 south, range 2 east.

The south half of the southeast quarter and the southeast quarter of the southwest quarter of section 19, township 4 south, range 1 east.

All of section 5, township 4 south, range 2 east.

All of section 7, township 4 south, range 2 east.

The west half of section 9, township 4 south, range 2 east.

The east half of section 11, township 4 south, range 2 east.

All of section 13, township 4 south, range 2 east.

All of section 15, township 4 south, range 2 east.

All of section 17, township 4 south, range 2 east.

All of section 21, township 4 south, range 2 east.

All of section 25, township 4 south, range 2 east.

All of section 27, township 4 south, range 2 east.

All of section 29, township 4 south, range 2 east.

All of section 31, township 4 south, range 2 east.

All of section 33, township 4 south, range 2 east.

The northeast quarter of section 3, township 4 south, range 4 east.

The south half of section 11, township 5 south, range 1 east.

The east half of the southeast quarter of section 17, township 5 south, range 1 east.

The southeast quarter of the southwest quarter; east half of the southwest quarter of the southwest quarter; south half of the southeast quarter of section 21, township 5 south, range 1 east.

All of section 3, township 5 south, range 2 east.

All of section 5, township 5 south, range 2 east.

All of section 7, township 5 south, range 2 east.

All of section 9, township 5 south, range 2 east.

The south half of section 11, township 5 south, range 2 east.

The northwest quarter of section 13, township 5 south, range 2 east.

All of section 15, township 5 south, range 2 east.

All of section 21, township 5 south, range 2 east.

The north half of the northeast quarter and the north half of the northwest quarter of section 23, township 5 south, range 2 east.

The northeast quarter of section 29, township 5 south, range 2 east.

The north half of section 7, township 5 south, range 3 east.

The west half of section 17, township 5 south, range 3 east.

The northwest quarter and the south half of section 1, township 5 south, range 5 east.

The southeast quarter of section 31, township 5 south, range 8 east.

The south half of section 19, township 6 south, range 1 east.

The west half of section 27, township 6 south, range 1 east.

All of section 29, township 6 south, range 1 east.

All of section 31, township 6 south, range 1 east.

All of section 33, township 6 south, range 1 east.

All of section 1, township 6 south, range 7 east.

The northwest quarter and the southeast quarter of section 23, township 6 south, range 8 east.

The northwest quarter of section 25, township 6 south, range 8 east.

The southwest quarter and north half of section 27, township 6 south, range 8 east.

All of section 33, township 6 south, range 8 east.

All of section 35, township 6 south, range 8 east.

The northwest quarter of section 3, township 7 south, range 1 east.

All of section 5, township 7 south, range 1 east.

Lots 1, 2, 4, 5, 9 and 10; east half of the southwest quarter and the southeast quarter of section 7, township 7 south, range 1 east.

All of section 9, township 7 south, range 1 east.

The east half of the northeast quarter; east half of the southeast quarter and the west half of section 13, township 7 south, range 1 east.

All of section 21, township 7 south, range 1 east.

The southeast quarter of section 23, township 7 south, range 1 east.

The north half of section 25, township 7 south, range 1 east.

All of section 27, township 7 south, range 1 east.

All of section 29, township 7 south, range 1 east.

All of section 31, township 7 south, range 1 east.

All of section 33, township 7 south, range 1 east.

The southwest quarter of section 35, township 7 south, range 1 east.

The north half of section 1, township 7 south, range 2 east.

The south half of the northeast quarter; south half of the northwest quarter and the south half of section 3, township 7 south, range 2 east.

The northwest quarter of section 5, township 7 south, range 2 east.

The west half of section 11, township 7 south, range 2 east.

The south half of section 13, township 7 south, range 2 east.

The north half of the northeast quarter of section 5, township 7 south, range 3 east.

The south half of section 7, township 7 south, range 3 east.

All of section 15, township 7 south, range 3 east.

All of section 17, township 7 south, range 3 east.

All of section 19, township 7 south, range 3 east.

All of section 21, township 7 south, range 3 east.

All of section 23, township 7 south, range 3 east.

All of section 25, township 7 south, range 3 east.

All of section 1, township 8 south, range 1 east.

The northeast quarter; north half of the southeast quarter and the southwest quarter of the southeast quarter of section 3, township 8 south, range 1 east.

The west half of section 5, township 8 south, range 1 east.

The north half of section 7, township 8 south, range 1 east.

The west half of section 9, township 8 south, range 1 east.

The northwest quarter of section 13, township 8 south, range 1 east.

All of section 27, township 10 south, range 6 east.

All of section 33, township 10 south, range 6 east.

All of section 35, township 10 south, range 6 east.

All of section 3, township 11 south, range 6 east.

All of section 9, township 11, south, range 6 east.

Third.

That as to the remainder of the lands described in the bill of complaint, in so far as said lands, or any right, title, or interest therein, or any right to select them as indemnity, has been granted to or conferred upon defendant the Southern Pacific Railroad Company by virtue of section 23 of the act of Congress approved March 3, 1871, entitled, "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," or by any act of Congress amendatory of or supplemental to said act, it is ordered, adjudged and decreed that the complainant take nothing; and as to said remainder of said lands (being the lands embraced in the bill, but not including those described in paragraphs "First" and "Second" of this decree), it is further adjudged and decreed that any grant to or right or title of, defendants the Southern Pacific Railroad Company in and to said lands, by virtue of section 23 of said act of Congress of March 3, 1871, or any act amendatory of or supplemental thereto, is in no way affected, impaired, or restricted by any grant to, survey, location, or map of route of the Texas Pacific Railroad

Company, or of its successor the Texas and Pacific Railroad Company, nor by any withdrawal or other executive order for or on account of said Texas Pacific Railroad Company, or its said successor: Provided that as to said remainder of the lands aforesaid (being the lands embraced by the bill, except those described in paragraphs "First" and "Second" of this decree), nothing in this decree shall affect or impair any right of the United States, or of any third person, to any mineral lands (other than coal or iron, or any lands which have been patented by the United States under any Mexican or Spanish grant, or any lands, or rights to lands, which are not embraced in said grant to said Southern Pacific Railroad Company by said acts of Congress, or any lands falling within the thirty-mile limits of the line of route of the Atlantic and Pacific Railroad Company, as shown by the map filed by said company in the interior department in the year 1872, which lands have been dismissed from this suit by complainant, or to any of those lands dismissed from the bill by the court on January 7, 1898, upon motion of complainant, which lands are described in the said order of dismissal in this cause, and to which reference is hereby made:

Provided, further, that nothing in this decree shall affect the right or title to any lands described in the bill which may be embraced within any Indian or military reservation, such lands having been dismissed from this suit by the court, upon motion of complainant.

Fourth.

It is further ordered, adjudged and decreed that the parties to these consolidated causes, plaintiffs and defendants, shall each pay their own costs.

ROSS,
Circuit Judge.

Decree entered and recorded August 24, 1899.

WM. M. VAN DYKE,
Clerk.

[Endorsed]: Nos. 675, 587, and 662. In the United States Circuit Court, Southern District of California. United States vs. Southern Pacific Railroad Company et al. Decree. Filed August 24, 1899. Wm. M. Van Dyke, Clerk. J. H. Call for Plaintiff. Copy served on defendants.

Whereupon said bill of complaint in cause number 587; two subpoenas in cause number 587; special appearance and plea in abatement of Southern Pacific Railroad Company in cause number 587; special appearance and plea in abatement of Gerrit L. Lansing in cause number 587; special appearance and plea in abatement of Southern Pacific Company in cause number 587; copy of order in cause number 587 directing defendants to appear and answer or demur; special appearance and plea in abatement of Southern Pacific Company in cause number 587; copy of order in cause number 587 overruling the plea of Southern Pacific Railroad Company; copy of order in cause number 587 overruling the plea of Southern Pacific Com-

pany of Kentucky; copy of order in cause number 587; overruling the plea of Gerrit L. Lansing; copy of order in cause number 587 that complainants have leave to file their amended bill of complaint; amended bill in cause number 587; joint and several answer to the amended bill in cause number 587; replication of complainant in cause number 587; Exhibits A and B to defendants' answer in cause number 587; bill of complaint in cause number 662; subpoena in cause number 662; answer of defendant in cause number 662; bill of complaint in cause number 675; subpoena for the Colorado River Irrigation Company in cause number 675; subpoena for the Southern Pacific Railroad Company, D. O. Mills and Gerrit L. Lansing, trustees, and the Central Trust Company of New York, and the Southern Pacific Company of Kentucky in cause number 675; copy of order in cause number 675 directing defendants to appear, plead, answer, or demur; replication to the answer in cause number 662; amended bill of complaint in cause number 675; copy of order consolidating cause number 587 with cause number 675; copy of order consolidating cause No. 662 with cause No. 675; copy of order in cause number 675 consolidating with said cause causes number 587 and number 662; amended bill in consolidated cause number 675; further amended bill in consolidated cause number 675; amendment to amended bill of complaint; amended and supplemental bill of complaint, joint and several answer of defendants to complainants' amended bill of complaint, and Exhibit A to said answer; copy of order of August 3, 1896, dismissing the bill, without prejudice, as to certain lands;

copy of order substituting Homer S. King, trustee, in the place and stead of Gerrit L. Lansing, trustee, as party defendant; copy of order that the answer of the other defendants be considered and treated as the answer of Homer S. King, trustee; replication to defendants' answer; copy of order of June 28, 1897, dismissing the bill of complaint, without prejudice, as to certain lands; copy of order of January 7, 1898, dismissing the bill of complaint, without prejudice, as to certain lands; and said final decree—are hereto annexed; said final decree being duly signed, filed and enrolled pursuant to the practice of said Circuit Court.

Attest, etc.,

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: No. 675. (Nos. 587, 662, and 675 consolidated). In the Circuit Court of the United States, Ninth Judicial Circuit, for the Southern District of California. United States of America vs. Southern Pacific Railroad Company et al. Enrolled papers. Filed August 24, 1899. Wm. M. Van Dyke, Clerk. Recorded Decree Register Book No. 2, page 404.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Complainant,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.

Opinion in Cause No. 587.

This is a suit in equity, brought by the government to quiet its alleged title to a large number of townships, sections, and parts of sections of land situated within this judicial district, in which it is alleged the defendants claim an interest under and by virtue of an act of Congress approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes" (U. S. Stats. 16, 573), and to enjoin the defendants from cutting or removing from said lands timber, wood, minerals, or other valuable deposits.

To the bill, the Southern Pacific Railroad Company alleged to be a corporation organized and existing under the laws of the State of California, D. O. Mills and Gerrit L. Lansing, trustees, alleged to be citizens of the State of California and residents of the city of San Francisco,

of that State, the Central Trust Company of New York, alleged to be a corporation organized and existing under the laws of the State of New York, the Southern Pacific Company, alleged to be a corporation organized and existing under the laws of the State of Kentucky, and the Colorado River Irrigation Company, alleged to be a corporation organized and existing under the laws of the State of Colorado, are made parties defendant.

The Southern Pacific Railroad Company, the Southern Pacific Company and Gerrit L. Lansing have appeared specially and filed pleas in the nature of pleas in abatement, objecting to the jurisdiction of the Court.

The plea of the Southern Pacific Railroad Company sets up that it is a corporation duly organized under the laws of the State of California, and, while admitting that it operates a line of railway through this judicial district, and maintains a ticket and freight office and depot therein, alleges that it is not an inhabitant of this district, but that it has its principal office, habitat, and domicile in the city and county of San Francisco, State of California.

The plea of the Southern Pacific Company alleges that it is not an inhabitant or resident of this judicial district, but is a corporation organized and existing under the laws of the State of Kentucky, and having its habitat and domicile in that State.

The plea of Gerrit L. Lansing alleges that he does not reside in this judicial district, but is an inhabitant and resident of the city and county of San Francisco, in the Northern District of this State.

Each of the defendants so appearing pray that the suit against them be dismissed for want of jurisdiction.

On motion of the government, the pleas were set down for argument. The question, therefore, is whether, under the facts as alleged in the bill and in the pleas, the Court has jurisdiction to entertain the suit and proceed in the cause. The Court, of course, takes judicial notice of the fact that the State of California is divided into two judicial districts. It is further aware of the fact that it is the established law that a corporation organized in one of the United States, and in that State only, cannot be considered a citizen, an inhabitant, or a resident of any other State, and that a corporation created by a State in which there are two or more judicial districts is to be considered an inhabitant of that district in which its general offices are situated, and in which its general business, as distinguished from its local business, is transacted. (Galveston etc. Railway vs. Gonzales, 151 U. S. 496, and cases there cited.)

The Southern Pacific Railroad Company, and D. O. Mills and Gerrit L. Lansing, trustees, are, therefore, to be regarded as citizens and inhabitants of the Northern District of California, the Central Trust Company as a citizen and inhabitant of the State of New York, the Southern Pacific Company of Kentucky as a citizen and inhabitant of the State of Kentucky, and the Colorado River Irrigation Company as a citizen and inhabitant of the State of Colorado. And, as the government is not a citizen or inhabitant of any particular State or district, but is everywhere present within the territorial limits of

the United States, none of the parties to the suit can be regarded as citizens or inhabitants of this judicial district; but the lands which constitute the subject of the suit are situated within this judicial district.

By the act of Congress of March 3, 1887 (24 Stats. 522), as corrected by the act of August 13, 1888 (25 Stats. 433), the circuit courts of the United States are given "original cognizance, concurrent with the courts of the several States, of all suits of a civil nature, at common law or in equity, where the matter in dispute exceeds, exclusive of interest and costs, the sum or value of two thousand dollars, and arising under the constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or in which controversy the United States are plaintiffs or petitioners * * *"; and, by a subsequent provision of the same section, it is declared: "No civil suit shall be brought before either of said courts against any person by any original process or proceeding in any other district than that whereof he is an inhabitant; but where the jurisdiction is founded only on the fact that the action is between citizens of different States, suit shall be brought only in the district of the residence of either the plaintiff or the defendant * * *." It has been held by the Supreme Court that suits falling within the last clause quoted—that is to say, suits in which jurisdiction depends solely upon the diverse citizenship of the parties—cannot be brought in the district of the residence of the plaintiff, unless, where there is more than one plaintiff, all of the plaintiffs reside in the district; nor, unless all of the defendants reside in the same district,

can suit be brought therein, because the statute does not confer the right to bring the suit in a district wherein a part only of the defendants reside. (Smith vs. Lyon, 133 U. S. 315.) One of the reasons assigned for that conclusion was that the court found, from the history of the legislation respecting the jurisdiction of the United States courts, a manifest purpose upon the part of Congress, in passing the act of 1887, as corrected by the act of 1888, to restrict, rather than to enlarge, the jurisdiction of the circuit courts. The reasons which induced the court to hold that, in cases where the jurisdiction is founded only on the fact that the action is between citizens of different States, each plaintiff must be competent to sue, and, if there are several defendants, each defendant must be liable to be sued, or the jurisdiction cannot be entertained, would seem to apply with equal force to that clause of the act of 1887, as corrected by the act of 1888, which declares that "no civil suit shall be brought, before either of said courts, against any person, by any original process or proceeding, in any other district than that whereof he is an inhabitant." That is to say, each defendant must be an inhabitant of the district in which he is sued, because the provision of the statute quoted expressly so declares; and, if this provision of the statute is the law which applies to and controls the present case, the result must necessarily be that the suit cannot be maintained in any district, because the defendants are inhabitants of different districts. Yet the suit was instituted by the attorney-general pursuant to an act of Congress approved March 3, 1887, entitled, "An act to provide for the adjust-

ment of land grants made by Congress to aid in the construction of railroads, and for the forfeiture of unearned lands, and for other purposes" (24 Stats. 556), by which the secretary of the interior was authorized and directed to adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads, and theretofore unadjusted, and by which the attorney-general was, upon certain conditions, required to thereafter "commence and prosecute, in the proper courts, the necessary proceedings to cancel all patents, certifications, or other evidence of title theretofore issued for such lands, and to restore the title thereof to the United States."

By the act last mentioned, Congress was not providing for the bringing of suits in the absence of a law conferring upon the courts jurisdiction to entertain them, nor for the bringing of as many suits respecting the same land in as many different districts as there should be diverse claimants thereto. The act of August 13, 1888, as well as that of March 3, 1887, conferring jurisdiction on the circuit courts, expressly, by the fifth section thereof, continued in force section 8 of the act of March 1, 1875 (U. S. Stats. 18, p. 472), which provides as follows:

"That when in any suit, commenced in any circuit court of the United States, to enforce any legal or equitable lien upon, or claim to, or to remove any encumbrance or lien or cloud upon, the title to real or personal property within the district where such suit is brought, one or more of the defendants therein shall not be an inhabitant of, or found within, the said district, or shall not voluntarily

appear thereto, it shall be lawful for the court to make an order directing such absent defendant or defendants to appear, plead, answer, or demur, by a day certain to be designated, which order shall be served on such absent defendant or defendants, if practicable, wherever found, and also upon the person or persons in possession or charge of said property, if any there be; or where such personal service upon such absent defendant or defendants is not practicable, such order shall be published in such manner as the court may direct, not less than once a week for six consecutive weeks; and in case such absent defendant shall not appear, plead, answer, or demur within the time so limited, or within some further time, to be allowed by the court, in its discretion, and upon proof of the service or publication of said order, and of the performance of the directions contained in the same, it shall be lawful for the court to entertain jurisdiction, and proceed to the hearing and adjudication of such suit in the same manner as if such absent defendant had been served with process within the said district; but said adjudication shall, as regards said absent defendant or defendants without appearance, affect only the property which shall have been the subject of the suit and under the jurisdiction of the court therein, within such district. And when a part of the said real or personal property against which such proceeding shall be taken shall be within another district, but within the same State, said suit may be brought in either district in said State; provided, however, that any defendant or defendants not actually personally notified as above provided may, at any

time within one year after final judgment in any suit mentioned in this section, enter his appearance in said suit in said circuit court, and thereupon the said court shall make an order setting aside the judgment therein and permitting said defendant or defendants to plead therein on payment by him or them of such costs as the court shall deem just; and thereupon said suit shall be proceeded with to final judgment according to law."

It is thus seen that by section 8 of the act of March 1, 1875, provision is made for the bringing in, by publication if necessary, in any suit commenced in any circuit court of the United States, to enforce any legal or equitable lien upon or claim to, or to remove any encumbrance or lien or cloud upon, the title to real property within the district where such suit is brought, any one or more defendants, whether an inhabitant of the district or not, and thereafter, upon the failure of the defendant or defendants so served to appear, plead, answer, or demur within the time allowed, the court is empowered to entertain jurisdiction and proceed to the hearing and adjudication of such suit in the same manner as if such absent defendant had been served with process within the district; provided, however, that such adjudication shall, as regards such absent defendant or defendants without appearance, affect only the property which shall have been the subject of the suit and under the jurisdiction of the Court therein within such district.

The jurisdiction thus conferred by section 8 of the act of March 1, 1875, and continued in force by the acts of 1887 and 1888, grows out of the nature of the subject matter,

and is in addition to that conferred on the circuit courts by the first section of the acts of 1875, 1887, and 1888, the provisions of which do not apply to cases over which jurisdiction is otherwise conferred upon the federal courts by reason of the subject matter. (In re Hohorst, 150 U. S. 653; In re Louisville Underwriters, 134 U. S. 488; Toledo Railroad vs. Pennsylvania Railroad, 54 Fed. Rep. 730.)

In Northern Indiana Railroad Company vs. Michigan Central Railroad Company, 56 U. S. 242, the Supreme Court said: "Wherever the subject matter in controversy is local, and lies beyond the limit of the district, no jurisdiction attaches to the circuit court sitting within it. An action of ejectment cannot be maintained in the district of Michigan for land in any other district. Nor can an action of trespass quare clausum fregit be prosecuted where the act complained of was not done in the district. Both of these actions are local in their character, and must be prosecuted where the process of the court can reach the locus in quo." A suit to quiet title, the object of which is to reach and settle the title to land, where provision is made by statute for the bringing in of non-resident claimants, would also seem to be local in its nature. In respect to such suits, section 741 of the Revised Statutes provides: "In suits of a local nature, where the defendant resides in a different district in the same state from that in which the suit is brought, the plaintiff may have original and final process against him directed to the marshal of the district in which he resides."

It is, however, strenuously contended, by counsel for the defendants objecting to the jurisdiction of this Court,

that a suit to quiet title is one in personam strictly, and, therefore, embraced by the provisions of the first section of the act of March 3, 1887, as corrected by the act of August 13, 1888; and, in support of this contention, much stress is laid by counsel on the case of Hart vs. Sansom, 110 U. S. 151.

In the subsequent case of Arndt vs. Griggs, 134 U. S. 316, the Supreme Court held that it is the established doctrine of that court that a state (and, of course, the United States) has power, by statute, to provide for the adjudication of title to real estate within its limits as against nonresidents who are brought into court only by publication, and that it was not the intention of the court, in the case of Hart vs. Sansom, 110 U. S. 151, to overthrow the series of cases affirming that power; on the contrary, that the Court in Hart vs. Sansom distinctly recognized it by saying, among other things, that:

"It would doubtless be within the power of the state in which the land lies to provide by statute that if the defendant is not found within the jurisdiction, or refuses to make or to cancel a deed, this should be done in his behalf by a trustee appointed by the court for that purpose."

And in Arndt vs. Griggs it is added :

"Of course it follows that, if a state has power to bring in a nonresident by publication for the purpose of appointing a trustee, it can in like manner bring him in and subject him to a direct decree."

The Court in Arndt vs. Griggs cited and reviewed the cases upon the subject at length; among others that of

Boswell's Lessee vs. Otis, 9 How. 336, where, said the Court, "was presented a case of a bill for a specific performance and an accounting, and in which was a decree for specific performance and accounting, and an adjudication that the amount due on such accounting should operate as a judgment at law. Service was had by publication, the defendants being nonresidents. The validity of a sale under such judgment was in question. The court held that portion of the decree and the sale made under it void, but, with reference to jurisdiction in a case for specific performance alone, made these observations: Jurisdiction is acquired in one of two modes: First, as against the person of the defendant by the service of process; or, second, by a procedure against the property of the defendant within the jurisdiction of the court. In the latter case the defendant is not personally bound by the judgment beyond the property in question, and it is immaterial whether the proceeding against the property be by an attachment or by bill in chancery. It must be substantially a proceeding in rem. A bill for the specific execution of a contract to convey real estate is not strictly a proceeding in rem in ordinary cases; but, where such a procedure is authorized by statute on publication without personal service of process, it is substantially of that character."

If a bill for the specific execution of a contract to convey real estate is substantially a proceeding in rem, where by statute service of process in such suit may be had by publication, it would seem that a suit to quiet title to real estate is of the same character in cases where the statute

authorizes a similar service. In the case of Pennoyer vs. Neff, 95 U. S. 714, 727-734, in which the question of jurisdiction in cases of service by publication was considered at length, the Court, by Mr. Justice Field, thus stated the law:

"Such service may also be sufficient in cases where the object of the action is to reach and dispose of property in the State, or of some interest therein, by enforcing a contract or lien respecting the same, or to partition it among different owners, or, where the public is a party, to condemn and appropriate it for a public purpose. In other words, such service may answer in all actions which are substantially proceedings in rem. * * * It is true that in a strict sense a proceeding in rem is one taken directly against property, and has for its object the disposition of the property without reference to the title of individual claimants; but, in a larger and more general sense, the terms are applied to actions between parties where the direct object is to reach and dispose of property owned by them or of some interest therein. Such are cases commenced by attachment against the property of debtors, or instituted to partition real estate, foreclose a mortgage, or enforce a lien. So far as they affect property in the State they are substantially proceedings in rem, in the broader sense which we have mentioned."

The principle of these cases, in my opinion, sustains jurisdiction here to the extent, at least, of settling the question of the title to the lands in dispute. Whether, should the facts warrant it, such decree may also include

the injunction prayed for by the complainant, upon the ground that it is but incidental and ancillary to the principal relief sought, or under the principle that where jurisdiction is acquired against the person by the service of process or by a voluntary appearance, a court of general jurisdiction will settle the matter in controversy between the parties, need not now be determined.

The pleas and motion to dismiss are overruled.

ROSS,

District Judge.

[Endorsed]: No. 587. United States Circuit Court, Ninth Circuit, Southern District of California. The United States of America vs. The Southern Pacific Railroad Company et al. Opinion. Filed October 11, 1894. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES,
Complainant,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.

Opinion in Cause No. 675.

The complainant instituted three suits in this court, numbered, respectively, 587, 662, and 675, the object of which was the determination of the title to those odd-numbered sections of land within the 20 and 30 mile limits of the grant made by the United States to the Southern Pacific Railroad Company by the act of Congress of March 3, 1871, which are also within 20 miles of the general route of the Texas Pacific Railroad Company as indicated by its map thereof filed in the office of the secretary of the interior, or within 30 miles of the asserted definite location of the Texas Pacific Railroad from Yuma, on the Colorado river, by way of San Gorgonio Pass, to San Diego, California; to cancel such patents as had theretofore been issued therefor by the government to the Southern Pacific Railroad Company under the grant of

March 3, 1871; and to quiet the complainant's title to all of the lands referred to. In each of the suits issue was joined by the defendants, and certain testimony taken therein. At that stage of the proceedings the Court, upon the stipulation of the respective parties, made an order consolidating the suits, with leave to the complainant to file an amended and supplemental bill (the parties stipulating that the testimony theretofore taken should, so far as applicable, be used in the consolidated case), and with leave to the respective parties to give such further evidence as they might elect. Thereafter, and on May 26, 1896, the complainant filed its amended and supplemental bill, upon which issue was joined by the defendants thereto, and additional evidence introduced by the respective parties. The complainant thereafter dismissed the suit in so far as concerned all of the lands mentioned for which patents had theretofore been issued by the government, except about 5,000 acres which the Southern Pacific Railroad Company contracted to sell and convey to the defendant Colorado River Irrigation Company. So that the case, as submitted, involves those 5,000 acres, and all of the unpatented odd-numbered sections of land embraced within the primary and indemnity limits of the Southern Pacific Company's grant of March 3, 1871, that are also within 20 miles of the general route of the Texas Pacific Company as indicated by its map thereof filed in the general landoffice, or within 30 miles of the asserted definite location of the Texas Pacific Railroad from Yuma by way of San Gorgonio Pass to San Diego.

The grant to the Southern Pacific Company was made by section 23 of the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes." (16 Stat. 573. The act provided for the incorporation of the Texas Pacific Railroad Company, and authorized and empowered it to "lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, from a point at or near Marshall, county of Harrison, State of Texas; thence by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona, to a point on the Rio Colorado, at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to Ship's Channel, in the bay of San Diego, in the State of California, pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude."

By section 9 of the act, Congress, for the purpose of aiding in the construction of the railroad and telegraph line thus authorized, granted to the Texas Pacific Railroad Company, its successors and assigns, "every alternate section of public land, not mineral, designated by odd numbers, to the amount of 20 alternate sections per mile on each side of said railroad line, as such line may be adopted by said company, through the territories of the United States, and 10 alternate sections of land per mile on each side of said railroad in California, where

the same shall not have been sold, reserved, or otherwise disposed of by the United States, and to which a preemption or homestead claim may not have attached at the time the line of said road is definitely fixed."

The act further provided that in case any of the said lands shall have been sold, reserved, occupied, or preempted, or otherwise disposed of, other lands shall be selected in lieu thereof by the company, under the direction of the secretary of the interior, in alternate sections, and designated by odd numbers, not more than 10 miles beyond the limits of said alternate sections first above named, and not including the reserved numbers. It also declared that "if, in the too near approach of said railroad line to the boundary of Mexico, the number of sections of land to which the company is entitled cannot be selected immediately on the line of said railroad, or in lieu of mineral lands excluded from this grant, a like quantity of unoccupied and unappropriated agricultural lands, in odd-numbered sections, nearest the line of said railroad, may be selected as above provided," with other provisions not necessary to be stated.

By section 12 of the act it was provided that whenever the Texas Pacific Company shall complete the first and each succeeding section of 20 consecutive miles of the railroad authorized, and put the same in running order as a first-class road in all its appointments, it shall be the duty of the secretary of the interior to cause patents to be issued, conveying to the company the number of sections of land opposite to and coterminous with such completed road to which it shall be entitled for each section

so completed. By section 12 it was also provided that the Texas Pacific Company, within two years after the passage of the act, should designate the general route of its said road, as near as may be, and shall file a map of the same in the department of the interior, and that when that map is so filed the secretary of the interior, immediately thereafter, shall cause the lands within 40 miles on each side of said designated route within the territories, and 20 miles within the State of California, to be withdrawn from pre-emption, private entry, and sale.

Section 23 of the same act is as follows:

"That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California), to construct a line of railroad from a point at or near the Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions, as were granted to said Southern Pacific Railroad Company of California by the act of July 27, 1866; provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic & Pacific Railroad Company, or any other railroad company."

The act of July 27, 1866, is the act by which Congress created the Atlantic & Pacific Railroad Company, with authority to construct and maintain a line of railroad and telegraph from a point at or near Springfield, Missouri, to the western boundary line of that State; thence

by the most eligible railroad route, to be determined by the company, to the Canadian river; thence to Albuquerque on the river Del Norte; thence by way of Agua Frio, or other suitable pass, to the head waters of the Colorado Chiquito; thence along the thirty-fifth parallel of latitude, as near as might be suitable for a road route, to the Colorado river, at such point as might be selected by the company for crossing, and "thence by the most practicable and eligible route to the Pacific"; in aid of the construction of which road Congress granted to the Atlantic & Pacific Company every odd-numbered section of public land, not mineral, to the amount of 20 alternate sections per mile on each side of such line as the company might adopt through any territory of the United States, and 10 alternate sections per mile on each side of the line through any state, to which the United States had full title and not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights, at the time the line of said road is designated by a plat thereof filed in the office of the commissioner of the general landoffice. (14 Stat. 292.)

By the eighteenth section of the act of July 27, 1866, the Southern Pacific Railroad Company was authorized to connect with the Atlantic & Pacific Railroad at such point near the boundary line of this state as it deemed most suitable for a railroad line to San Francisco, and to have a uniform gauge and rate of fare with that road; and in consideration thereof, to aid in its construction, "shall have similar grants of land, subject to all the conditions and limita-

tions herein provided, and shall be required to construct its road on like regulations as to time and manner, with the Atlantic & Pacific Railroad herein provided for."

On the 2d day of March, 1872, Congress passed an act supplementary to that of March 3, 1871, by which the name of the Texas Pacific Railroad Company was changed to "The Texas & Pacific Railway Company," and which, after providing for the issuance, and filing and recording in the department of the interior, of certain bonds and mortgages by that company, and providing that the road should be constructed with iron or steel rails manufactured from American ore, except such as may have been contracted for before consolidation by any railroad company which may be purchased by or consolidated with the grantee company, declared in section 5 thereof that the Texas & Pacific Railway Company should commence the construction of its road at or near Marshall, Texas, and should proceed with its construction on the line authorized by the original act, and so prosecute the same as to have at least 100 consecutive miles of railroad from Marshall, Texas, completed and in running order within two years thereafter; and so continue to construct, each year thereafter, a sufficient number of miles, not less than 100, to secure the completion of the whole line within ten years after the passage of the supplemental act; with a further provision that the company should "commence the construction of said road from San Diego eastward within one year from the passage of this act, and construct not less than 10 miles before the expiration of the second year, and after the second year not less than 25

miles per annum in continuous line thereafter between San Diego and the Colorado River until the junction is formed with the line from the east at the latter point, or east thereof; and, upon failure to so complete it, Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion." (17 Stat. 59.)

On February 28, 1885, an act of Congress was approved declaring forfeited all of the lands granted to the Texas & Pacific Company, and the whole thereof "restored to the public domain and made subject to disposal under the general laws of the United States, as though said grant had never been made." (23 Stat. 337.)

From this brief review of the congressional legislation upon the subject, it will be seen that the grant to the Southern Pacific Railroad Company of March 3, 1871, in aid of the road it was thereby authorized to construct, was of such lands within the designated limits to which the United States had full title, and which were not reserved, sold, granted, or otherwise appropriated, and as were free from pre-emption or other claims or rights at the time the line of its road should be designated by a plat thereof filed in the office of the commissioner of the general landoffice. The grant, as has also been seen, was accompanied with the further provision that it should "in no way affect or impair the rights, present, or prospective, of the Atlantic & Pacific Railroad Company, or any other railroad company." We are, therefore, to inquire whether the Atlantic & Pacific or any other railroad company had acquired any present or prospective right to any of the lands in suit, and, if so, to which of said lands,

and, further, whether any of the lands in suit, and, if so, which of them, were reserved to the United States, or to which any other right or claim had attached, at the time of the filing in the general landoffice by the Southern Pacific Railroad Company of its map of the definite location of the road authorized to be built by it by section 23 of the act of March 3, 1871.

As the grants to the Southern Pacific and the Texas Pacific Railroad Companies were made by the same act and of the same date, the usual rule would give to each company one-half of such lands as fell within both grants. But the present case is taken out of the ordinary rule, as was expressly decided by the Supreme Court in the case of United States v. Colton Marble & Lime Co., 146 U. S. 615, 616, by the proviso annexed to the grant to the Southern Pacific Company; respecting which proviso the Supreme Court, in the case last cited, said: "It cannot be supposed that this proviso was meaningless, and that Congress intended nothing by it. Carefully inserted, in a way to distinguish this grant from ordinary later and conflicting grants, it must be held that Congress meant by it to impose limitations and restrictions different from those generally imposed in such cases, and it in substance declared that the Southern Pacific Company should not in any event take lands to which any other company had at the time a present or prospective right."

Proceeding in the case cited, the Supreme Court said:

"What were the prospective rights of the Atlantic & Pacific Company? Of course, it could not be known at the

time of the passage of the latter act exactly where the lands of the two companies would be located, and where the point of crossing would be. Neither could it then be known that there would be any deficiency in the granted lands at the point of crossing, or that, if such deficiency existed, it would require all the indemnity lands to make good the loss. It might well be assumed that very likely the Atlantic & Pacific Company would be called upon to select from the indemnity lands a portion sufficient to make good the deficiency in the granted limits. The right of selection was a prospective right, and, if it was to be fully exercised, no adverse title could be created to any lands within the indemnity limits. Suppose, for instance, it should turn out that only half of the indemnity lands were necessary to make good the deficiency, and that one-half of such lands were well watered and valuable, while the remainder were arid and comparatively valueless; obviously the right of selection would be seriously impaired if it were limited to only the arid and valueless tracts. In fact, every withdrawal of lands from the aggregate of those from which selection could be made would more or less impair the value of the right of selection. The only way in which force can be given to this proviso is to hold that the indemnity lands of the Atlantic & Pacific were exempted from the grant to the Southern Pacific, for, if not exempted, the former company's prospective right of selection would be to that extent impaired."

The Court was here speaking of the conflicting claims of the Southern Pacific and Atlantic & Pacific Railroad

Companies, but, as the proviso to the Southern Pacific grant also includes the "present or prospective" rights of "any other railroad company," it is obvious that the decision of the Supreme Court in the case cited is equally applicable to the conflicting claims of the Southern Pacific and Texas & Pacific Companies, and that, under that decision, any lands to which the Texas & Pacific Company had a present or prospective right at the time of the filing in the general landoffice by the Southern Pacific Company of its map of the definite location of the road it was authorized to build by section 23 of the act of March 3, 1871, were excluded from the grant thereby made. And as whatever rights the Texas & Pacific Company ever acquired to any of the lands in question continued to exist until the act of forfeiture passed by Congress, February 28, 1885, and as long before that time the Southern Pacific Company had built the road it was authorized to construct, and filed in the general landoffice maps showing its definite location, it follows that if, at the latter date, the lands in suit, or any of them, were for any reason reserved, or were lands to which the Texas & Pacific Company had acquired a present or prospective right, such lands did not pass to the Southern Pacific Company under its grant.

The case shows that the Texas & Pacific Railroad Company filed in the office of the secretary of the interior a map of the general route of its road on the 15th day of October, 1871, which map was accepted and approved by the secretary of the interior, and that thereupon an executive order was made withdrawing, for the benefit of that company, all of the public lands in California

designated by odd numbers, falling within 20 miles on either side of that line of its road. To all of such public lands the Texas & Pacific Company certainly had a "prospective," if not a "present," right, under the decision of the Supreme Court in United States v. Colton Marble & Lime Company, supra.

This 20-mile limit from the line of the general route of the Texas & Pacific Company, however, includes but a small part of the lands in controversy. The main contention in the case relates to those lands within the primary and indemnity limits of what the complainant contends was the definite location of the line of route of the Texas & Pacific Company extending from Yuma, by way of the San Gorgonio Pass, to San Diego.

On the part of the defendants it is insisted that the Texas & Pacific Company never had the right to locate or build any road from Yuma to San Diego by way of the San Gorgonio Pass, and that, if it ever had such right, it never, in fact, definitely located any such road.

That the Texas & Pacific Company never built the road authorized by Congress is conceded. It was for that reason that Congress, on the 28th day of February, 1885, declared forfeited the grant it had theretofore made in behalf of that company.

Recurring to the act of March 3, 1871, it is seen that the road the Texas & Pacific Company was authorized to build, and in aid of which that company's grant was made, was a road extending from Marshall, Texas, by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north lati-

tude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona, to a point on the Colorado river at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to Ship's Channel in the bay of San Diego, California, pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude.

It is thus seen that Congress left it to the Texas & Pacific Company to determine the most direct and eligible route between Marshall, Texas, and a point at or near El Paso, and that it also left to that company the determination of the most direct and eligible route from the latter point, through New Mexico and Arizona, to a point on the Colorado river, at or near the southeastern boundary of the State of California; but from this latter point Congress saw proper to limit the discretionary power of the Texas & Pacific Company, and itself declared that, from the point the Texas & Pacific Company should locate on the Colorado river, the road should be extended by the most direct and eligible route to Ship's Channel in the bay of San Diego, "pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude."

And in the supplementary act of March 2, 1872, Congress, as has been seen, not only provided for the speedy commencement of the road at Marshall, Texas, and for its continuous prosecution and construction from that point "on the line authorized by the original act," but also provided that the company should "commence the

construction of said road from San Diego eastward, within one year from the passage of this act, and construct not less than 10 miles before the expiration of the second year, and after the second year not less than 25 miles per annum in continuous line thereafter between San Diego and the Colorado river, until the junction is formed with the line from the east at the latter point, or east thereof; and, upon failure to so complete it, Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion."

In 1872 and 1873 the Texas & Pacific Company surveyed various lines between the Colorado river and the bay of San Diego. At that time Gen. G. M. Dodge was chief engineer of the company, and J. A. Evans and Joseph U. Crawford were two of its division engineers. The result of those surveys was embodied by the chief engineer in a report made by him to the president of the company on the 12th day of March, 1873. That report is in part as follows:

Office of the Chief Engineer.

Marshall, Texas, March 12th, 1873.

Hon. Thomas A. Scott, President.

Dear Sir: I have the honor to submit a preliminary report upon the surveys on the California Division between San Diego & Colorado river with a view of determining the route for adoption over that division.

The full report of all the surveys with maps, profiles, etc., will be made up by Mr. Evans hereafter, but from data forwarded to me by him I am able to place before the board sufficient information for them to determine upon the general route from San Diego east.

The lines examined are as follows:

The direct line from San Diego to Ft. Yuma, known as the "Otay Valley Line," 203 11-100 miles long.

The San Gorgonio Pass lines, numbered 1 to 4, marked "Main Line" and "A," "B," "C," "D," on maps.

No. 1. Main line, 313 miles long.

No. 2. The coast line, via Temecula creek, to the main line, thence by main line to the Pass, 308 73-100 miles.

No. 3. The coast line to Temecula, thence the main line to La Laguna, thence up the San Jacinto river and San Bernardino, 302 miles.

No. 4. The coast line, thence Temecula creek, thence line "D" direct to San Gorgonio Pass, 270 miles.

Warner's Pass line was not examined, our reconnoissance of it showing that it was impracticable as compared with other lines.

The prominent features of each line are, first:

Direct line crosses a barren, uninviting country, hanging to steep and perpendicular slopes, stubborn to overcome, and crossing valleys and ravines hundreds of feet high, passing the summit of the Sierra Nevadas at Walker's Summit, thence down Carissa Canyon to the desert, and thence to the Colorado at Fort Yuma. As an evidence of the character of the Carissa Canyon on the direct line, 7½ miles of that work is estimated to cost $240,000 per mile.

The Carissa Canyon is reported as very heavy work, the crossing of the streams and ravines requiring nearly 7,000,000 feet of timber and 600 feet Howe truss bridging, which must be built, as earth excavation cannot be

found to fill the chasms. It also has eleven tunnels in eleven miles.

It has 57 18-100 miles from 80 to 116 ft. maximum grade, and 11 61-100 miles of 116 ft. grade.

The ascent and descent to this line is 9,032 feet. After reaching the desert, lines cross the Sand Hills, composed of shifting sand, often changing miles in a single season. It is considered that if we take this route we will have to avoid these hills either by the south, which would take us into Mexico, or by the north, which would increase the distance some 18 miles. The distance upon the line as surveyed is 203 11-100 miles. Locally this is the line that is most desired by the people of San Diego. It is the shortest line on the surface and would have the least mileage to operate. It strikes the bay of San Diego direct from the east and would be the shortest line across the continent; but equated and reduced to level grade, and compared with San Gorgonio Pass lines, it is the longest line from Fort Yuma to San Diego. The estimates upon it have been made as closely as practicable, considering the nature of the country. It is impossible upon such grade to cover all contingencies, but estimates have been made as grades show on profile.

Mr. Evans thinks that his estimate covers the cost of the line. Upon the location of this line it is my opinion if we are forced to keep clear of the Sand Hills the distance will be increased to 220 miles.

In competition with this line we have the lines known as the San Gorgonio Pass lines, two of which are distinct lines to San Gorgonio Pass; the others being parts

of each of those lines. They are known as the "Main Line" and "Coast Line." From San Gorgonio Pass to Fort Yuma all are a common line.

No. 1. The main line commences at San Diego, follows a short distance up the San Diego river; thence across the drainage of the country to Temecula creek; thence by Temecula and La Laguna to the Rio de Santa Anna, and up that stream to the San Bernardino Valley, thence to San Gorgonio Pass. This is the longest of all the San Gorgonio Pass lines, and has the greatest ascent and descent, obtaining it in crossing the drainage from San Diego to Temecula, and will not, as a whole, come into comparison with some of the other lines. That portion of it from Temecula to the Santa Anna river, and thence by San Bernardino and San Gorgonio Pass, including a connection with Los Angeles, gives us the best connection north. This line is 313 miles long.

No. 4. The next line, known as the "Coast Line," and numbered "4," follows the coast from San Diego to the mouth of Temecula creek; thence up Temecula creek to Temecula; thence by line "D" direct to San Gorgonio Pass. This line is the shortest of the San Gorgonio Pass lines, and, as I calculate the cost, is the cheapest, though Mr. Evans makes the construction of it proper cost a little more than line 3.

This line is the proper line to adopt from San Diego to Temecula provided the San Gorgonio Pass route is taken. From Temecula to the San Gorgonio Pass we have examined four lines, and the examination reduces us to the choice of two.

This direct coast line has an elevation and depression of 8,133 feet, has 28 44-100 miles maximum grade 80 to 105 feet. It is least in curvature, and in a solely engineering point of view is the best of all the lines examined. When equated to a level grade it is 50 miles shorter than Otay Valley direct line.

No. 3 line is the same as the coast line to Temecula, thence runs by La Laguna; thence by San Jacinto river by line "B" to Riverside and San Bernardino; thence San Gorgonio Pass, 302 22-100 miles.

The great difficulty of overcoming the country between La Laguna and the San Jacinto, and up that river, throws it out of the comparison. It is mentioned here for the purpose of showing that we have thoroughly examined that country.

Line No. 2 is the same as the coast line to Temecula, thence the same as the main line to San Gorgonio Pass, passing the La Laguna to the Rio de Santa Anna through San Bernardino to the pass. By examining the tables of cost, grades, and distances, you will see that the decision upon the lines lies between this line and line "D" and the direct line by the Otay Valley.

If we aim for a connection with Los Angeles this line will give it to us better than line "D." If we regard Los Angeles and Temecula as fixed points, the distances would compare as follows:

Temecula to the Pass, Line "D"	40 miles.
Los Angeles to San Bernardino	54 "
San Bernardino to Pass	18 "
Total	112 miles.

This is with a view of taking the produce of Los Angeles to San Diego, and it would run from Los Angeles to San Bernardino; then to San Gorgonio Pass; thence down line "D" to San Diego.

From Temecula to Los Angeles via main line	74 miles
Temecula to Temecula Pass	44 "
Total	118 miles.

Making it six miles longer. To overcome this six miles we make the elevation to San Gorgonio Pass on this line but once, while on line "D" it is made twice; it would have to be done on both lines provided the intersections were made at the summit instead of at Temecula. I submit tables of grades and of the cost of the lines as obtained from the estimates of Mr. Evans.

Embodied in this report were estimates of division engineer Evans showing the cost of the line by way of Otay Valley to be $12,441,706.97, and the cost of the line by way of San Gorgonio Pass to be $6,441,706.97.

This report of the chief engineer having been by the president of the company submitted to its board of directors, that board, on April 4, 1873, adopted this resolution:

"On motion it was resolved that the line by San Gorgonio Pass known as 'Number 4' be, and the same is hereby, adopted as the route from San Diego, with such modifications as in the judgment of the president may be to the best interests of the company."

In May, 1874, Gen. Dodge, as chief engineer, in a report to the company, thus described the line of road from Yuma to San Diego:

"Beginning at Fort Yuma: From there the line runs in a northwesterly direction, passing to the north of the Sand Hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert, leaving the mud volcanoes about five miles to the south, and the Dos Palmos stage station about the same distance to the north, we reach the Cabazon Valley, 113 miles from Ft. Yuma; thence on nearly the same course 50 miles, to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto, which is known as the Potrero (or Pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains. These plains lie between the main range and the Santa Ana range, and down the Temecula Plains to the head of Temecula Canyon, and down the canyon, where the Temecula breaks through the Santa Ana range, 10 miles to the open valley, striking the coast near the Santa Margarita

ranches, about 40 miles north of San Diego; then south and down the coast on the western slope of the Soledad mountains, crossing the Soledad, San Luis Rey, San Dieguito, the ravine of La Jolla, skirting False bay; then to the shore of San Diego bay, and along the shore of the bay to the depot grounds of the Texas Pacific Railway below the Pacific Steamship Company's wharf. Distance from the Pima villages on the Gila river 444.4 miles."

It is this line that the complainant claims is the line of definite location of the Texas & Pacific Company.

Assuming, for the present, that the line thus described was definitely located, we proceed to inquire whether it was the line authorized to be built by the Texas & Pacific Company by the acts of Congress in question.

It is not denied that the Otay line referred to in this report of the chief engineer of the Texas & Pacific Company, made on the 12th day of March, 1873, is the direct line between Yuma and San Diego, and approximately corresponds with the map of general route filed by that company in the office of the secretary of the interior. It pursues, too, "as near as may be," the thirty-second parallel of north latitude, approaching within a few miles the boundary line between the United States and Mexico.

The line of route described by the chief engineer of the company in his report of May, 1874, and contended on the part of the complainant to be the line definitely located by the company, starts at Yuma, and runs in a northwesterly direction 163 miles to the summit of San Gorgonio Pass (about the thirty-fourth parallel of north latitude), and runs thence southwesterly to the Pacific coast,

and thence south 40 miles down the coast to the bay of San Diego.

It is thus seen that this line, so far from pursuing, as near as may be, the thirty-second parallel of north latitude from Yuma to San Diego, and running eastward from San Diego, as Congress explicitly declared it should do, runs north from San Diego, a distance of 40 miles, and thence northeasterly until it practically reaches the thirty-fourth parallel of north latitude. Not only so, but from San Gorgonio Pass to Yuma it practically parallels the other road provided by the very same act of Congress should connect, at or near the Colorado river, with the Texas & Pacific road authorized to be built.

It seems entirely clear to me that the Texas & Pacific Company was not authorized to locate or build any such road. It was not the road contemplated by Congress. It was not the road indicated upon the map of general route filed by that company in the office of the secretary of the interior, which map, so far as appears, was the only map that company ever did file in the general landoffice indicating any line between Yuma and San Diego. Congress, as the acts in question plainly show, provided for two railroads west of the Colorado river, and provided for their junction at or near that river—one, the Texas & Pacific, to extend from that point of junction westward, by the most direct and eligible route, pursuing, as near as may be, the thirty-second parallel of north latitude to Ship's Channel, in the bay of San Diego; and the other, the Southern Pacific, to connect therewith at or near the Colorado river, and to build from that point by way of Los

Angeles (necessarily through the San Gorgonio Pass) to a point at or near the Tehachapi Pass, the declared purpose being to thereby connect the Texas & Pacific Railroad with the city of San Francisco.

In this respect the act under consideration is much like the Northern Pacific act of July 2, 1864 (13 Stat. 365). By that act the Northern Pacific Railroad Company was incorporated with authority to construct and to maintain a continuous railroad and telegraph line "beginning at a point on Lake Superior in the State of Minnesota or Wisconsin; thence westerly by the most eligible railroad route as shall be determined by said company within the territory of the United States, on a line north of the forty-fifth degree of latitude, to some point on Puget Sound, with a branch via the valley of the Columbia river to a point at or near Portland, in the State of Oregon, leaving the main trunk line at the most suitable place not more than three hundred miles from its western terminus." In aid of that line certain lands were by the act granted to the Northern Pacific Company. By a joint resolution of Congress approved April 10, 1869, it was provided that "the Northern Pacific Railroad Company be, and hereby is, authorized to extend its branch line from a point at or near Portland, Oregon, to some suitable point on Puget Sound to be determined by said company, and also to connect the same with its main line west of the Cascade mountains, in the territory of Washington; said extension being subject to all of the conditions and provisions, and said company, in respect thereto, being entitled to all the rights and privileges, conferred by the act incor-

porating said company, and all acts additional to and amendatory thereof; provided, that said company shall not be entitled to any subsidy in moneys, bonds, or additional lands of the United States in respect to said extension of its branch line as aforesaid, except such lands as may be included in the right of way on the line of such extension as it may be located; and provided, further, that at least twenty-five miles of said extension shall be constructed before the second day of July, eighteen hundred and seventy-one, and forty miles per year thereafter, until the whole of said extension shall be completed." (16 Stat. 57.)

On the 4th day of May, 1870, Congress, for the purpose of aiding in the construction of a railroad and telegraph line from Portland to Astoria, and a suitable point of junction near Forest Grove to the Yamhill river near McMinnville in the State of Oregon, granted to the Oregon Central Railroad Company, a corporation of Oregon, then engaged in constructing said road, and to their successors and assigns, a right of way, etc., and also certain lands, which company accepted the grant, and on the 31st of January, 1872, filed its map of definite location of a proposed line of road from Astoria to Castor creek, near Forest Grove. On the 31st day of May, 1870, Congress passed a joint resolution providing "that the Northern Pacific Railroad Company be, and hereby is, authorized * * * to locate and construct, under the provisions, and with the privileges, grants, and duties provided for in its act of incorporation, its main road to some point on Puget Sound, via the valley of the Columbia river, with

the right to locate and construct its branch from some convenient point on its main trunk line across the Cascade Mountains to Puget Sound; and in the event of there not being, in any State or territory in which said main line or branch may be located at the time of the final location thereof, the amount of lands per mile granted by Congress to said company, within the limits prescribed by its charter, then said company shall be entitled, under the directions of the secretary of the interior, to receive so many sections of land belonging to the United States, and designated by odd numbers, in such State or territory within ten miles on each side of said road, beyond the limits prescribed in said charter, as will make up such deficiency, on said main line or branch, except mineral and other lands as excepted in the charter of said company of eighteen hundred and sixty-four, to the amount of the lands that have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of subsequent to the passage of the act of July 2, 1864. And that 25 miles of said main line between its western terminus and the city of Portland, in the State of Oregon, shall be completed by the first day of January, Anno Domini eighteen hundred and seventy-two, and forty miles of the remaining portion thereof each year thereafter until the whole shall be completed between said points." (16 Stat. 378.)

In the case of the United States vs. Northern Pacific R. Co., 152 U. S. 284, 292, the question arose whether the act of July 2, 1864, contained a grant of lands in aid of the construction by the Northern Pacific Railroad Com-

pany of a railroad and telegraph line from Portland to Puget Sound? The Court said:

"Although that act allowed the company to adopt the most eligible route within the territory of the United States north of the forty-fifth degree of latitude, it is clear that Congress contemplated the construction of a main trunk line between Lake Superior and Puget Sound, which would not touch any point 'at or near Portland,' and the western end of which would be east and northeast of a direct line between Portland and Puget Sound, and, in addition, a branch line leaving the main trunk line at some suitable place not more than three hundred miles from its western terminus, and extending, 'via the valley of the Columbia river, to a point at or near Portland.' If the main line, as originally indicated by the act of 1864, had been established on the route between Portland and Puget Sound, the branch line could not have left the main line at some point not more than three hundred miles from its western terminus, and extended via the valley of the Columbia river to a point at or near Portland. The authority given to the company to adopt the most eligible route did not authorize it, by a map of general route, to cover an unlimited extent of country north of the forty-fifth degree of latitude. On the contrary, as said in St. Paul & Pacific Railroad vs. Northern Pacific Railroad, 139 U. S. 1, 13, 'when the termini of a railroad are mentioned, for whose construction a grant is made, the extent of which is dependent upon the distance between those points, the road should be constructed upon the most direct and practicable line. No unnecessary de-

viation from such line would be deemed within the contemplation of the grantor, and would be rejected as not in accordance with the grant.' "

Not only do I think that the Texas & Pacific Company was not authorized to locate or build any road through the San Gorgonio Pass, but I am also of opinion that the evidence in the case fails far short of showing that it ever did in fact definitely locate any such line. It is not enough that the chief engineer of the road said in his report made to the company in May, 1874, that "the route of the road has been definitely fixed," nor is it enough that the company, in its annual report made to the secretary of the interior under oath, for the year ending June 30, 1874, contained "a description of the line of route surveyed and fixed upon for construction."

That annual report, like others of a similar character referred to in the record, was made under and pursuant to the provisions of section 13 of the granting act of March 3, 1871, which declares "that the president of the company shall annually upon the first day of July, make a report and file it with the secretary of the interior, which report shall be under oath, respecting the financial condition of the company, the amount of money received and expended, and the number of miles of road constructed each year; and, further, the names and residences of the stockholders, of the directors, and of all other officers of the company; the amount of stock subscribed; the amount thereof actually paid in; a description of the lines of road surveyed and fixed upon for construction; the amount received from passengers and for

freight, respectively, on the road; a statement of the expenses of said road, and its fixtures; and a statement of the indebtedness of said company, and the various kinds thereof."

The statement of an officer of a road that there has been a definite location of the line of the road authorized to be constructed, does not establish the fact, in the absence of a statute attributing such effect to such a statement. In this case there is no such statute. Whether or not the line was definitely located is a question of fact to be determined from the evidence. It is not pretended that any map was ever filed by the Texas & Pacific Company in the general landoffice showing any such definite location. The line contended for on the part of the complainant was undoubtedly surveyed in the field and staked upon the ground; but there is not only no sufficient evidence of its adoption by the Texas & Pacific Company as its line of definite location (which term necessarily imports that it had passed beyond the power of the company to alter it in any respect), but the very resolution relied upon by the Government as an adoption of the line as one of definite location, upon its face shows that it was subject to change by the company, for it in terms adopts it "with such modifications as in the judgment of the president may be to the best interests of the company."

And there is an abundance of other evidence going to show that the route of the Texas Pacific road never was definitely fixed. The surveys in the field by way of San Gorgonio Pass were made by Joseph U. Crawford, those

by way of the Otay Valley (the direct line) by engineer Reno, and those by way of Julian and Warner's Pass by engineer Wood.

Crawford's deposition was given in this suit in November, 1897, and in it he states that he made his surveys in the autumn of 1872; that he surveyed the line from Yuma to the summit of the San Gorgonio Pass, and from that summit down the San Jacinto, across the Temecula Plains to the canyon of that name, and thence down the coast to the bay of San Diego, and "chained and staked it in order to obtain the topography, and in order to construct a profile and make a close estimate"; that according to his recollection he drove stakes every 200 feet on the desert, and every 100 feet on the grade; that he thereafter prepared 'maps of different scales, and did all the necessary office work in order to get up a proper and reliable estimate," and turned them over to his superior officer, Major Evans, who had charge in California of all three of the surveying parties, and to whom Crawford, Reno, and Wood all reported the results of their surveys. The survey made by Crawford of the line now claimed on the part of the complainant to be that of definite location, it will be observed, was made in the fall of 1872—the year preceding that in which the board of directors of the Texas Pacific Company adopted the route recommended by the chief engineer, "with such modifications as, in the judgment of the president, may be to the best interests of the company." That resolution was passed April 4, 1873. It is not claimed that there was any subsequent survey in the field of a route by way of San

Gorgonio Pass. These facts are of themselves enough to show that the route by way of San Gorgonio Pass was never definitely fixed, which term, as has been said, imports that it is no longer subject to change by the company making it. The report made to the board of directors of the company by the chief engineer, upon which the above resolution was passed, was based upon the report to him of Major Davis, of February 3, 1873, with respect to the availability of the different routes through the mountains between Yuma and the bay of San Diego. Being asked whether, from his knowledge of the topography and grades, that report was substantially correct, the witness Crawford answered: "I don't think they had developed a practicable line, on what we called a direct line, from San Diego to Fort Yuma along the southern boundary. Q. At that time, you mean? A. At that time, or even since. Q. Well, what do you say as to the estimates of Major Evans in that report as to measuring grades and altitudes against distances? A. I think that Major Evans' report, wherein he advised the adoption of the line by San Gorgonio Pass as being commercially the shorter line, and best for the company, was correct."

The witness Crawford further testifies that about the year 1877 he was asked by Mr. Bond, vice-president of the Texas & Pacific Company, to go to San Diego and try to reduce the quantities upon the direct line surveyed by Reno. "I went there," said the witness, "and reconnoitered the ground; organized a surveying party, and was in the field for two or three months—as long as they

would pay anything—and as a result I reported a very heavy reduction upon Reno's quantities upon the western slope of the Sierras upon the direct line. Frank Bond then communicated with General Dodge, and General Dodge sent Evans back to California to see me, and to see wherein this reduction could have been made, and whether he would acknowledge that I had improved upon the Reno survey; and I understood—I have not seen Evans' report to Bond and General Dodge—but I understand he acknowledged that I made a heavy reduction. On the strength of that the people of San Diego appointed me with David Felsenheld as a committee, and I went to Washington in the winter of '77-'78 and appeared before the committee on the Pacific Railroad, and did all I could to get the direct line constructed. At that time, if my memory serves me, the Southern Pacific had constructed through San Gorgonio Pass."

Certainly, this very clearly shows that as late as 1877 the route of the Texas & Pacific Company had not been definitely fixed.

The same fact is clearly shown by the following extract taken from the address of Mr. John C. Brown on February 22, 1876, before the committee of Congress on the Texas & Pacific Railroads, he being at the time vice-president of the Texas & Pacific Company:

"I wish to state, in reply to Mr. Huntington, when he says that Colonel Scott two years ago declared that the road could not be constructed over the direct route from Yuma to San Diego, that we have since that time had

skillful and intelligent engineers to go over that country, and they have explored canyons and passes not before examined by our engineers, and revised the former line; and they report that the direct line is entirely practicable, and that it can be built at much less cost than similar work done on the Southern Pacific or Central Pacific roads. We have a profile of the route and the report of the engineer, and know certainly that we can build from Fort Yuma through to San Diego at a cost of less than $36,000 a mile on the average. There are 30 miles of this route which will be very expensive; some of it may cost $250,000 to $300,000 per mile; but the average will not exceed $36,000 per mile."

These facts, and others of a similar nature appearing in the record, make it perfectly clear that there never was any definite location of the Texas Pacific Railroad, and, as a consequence, that none of the lands in suit, covered by the grant of March 3, 1871, to the Southern Pacific Company, are excluded therefrom by reason of any definite location of the Texas & Pacific Company.

That the piece of land claimed by the defendant Crawford was not subject to settlement by him in 1887 is shown by the case in this court of Southern Pacific Railroad Company v. Groeck, the opinion in which was filed April 3, 1899.

That the lands patented to the defendant railroad company, and by it contracted to be sold and conveyed to the defendant Colorado River Irrigation Company, are protected by the confirmatory act of Congress of March 2, 1896 (29 Stat. 42), supplementing that of March 3, 1887,

(24 Stats. 556), is shown by the decisions of this Court in the cases of United States vs. Southern Pacific Railroad Company et al., 86 Fed. Rep. 962, and United States vs. Southern Pacific Railroad Company et al., 88 Fed. Rep. 832.

That the defendant trustees of the Southern Pacific Company have no greater rights in respect to the lands in suit than has that company is also shown by the decision in United States vs. Southern Pacific Railroad Company et al., 86 Fed. Rep. 962, and cases there cited.

A decree will be entered in accordance with the views above expressed.

ROSS,
Circuit Judge.

[Endorsed]: No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants. Opinion filed April 10, 1899. Wm. Van Dyke, Clerk. By E. H. Owen, Deputy.

In the Circuit Court of the United States for the Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.

No. 587.

Motion of Southern Pacific Company to Set Aside Service of Summons.

Now comes the defendant Southern Pacific Company, and, appearing only for the purpose of this motion, moves this Honorable Court:

I.

To set aside and quash the attempted service of the summons upon the Southern Pacific Company, upon the grounds that said attempted service was not made upon the managing agent, business agent, cashier, or secretary of the said defendant corporation, or upon any person upon whom service of summons is authorized by law.

II.

To set aside and vacate the attempted service of summons in this case upon the defendant the Southern Pa-

cific Company, upon the ground that this Court has no jurisdiction of said defendant.

Said motion will be made upon the files and records in this cause, and upon the affidavit of J. A. Muir herewith filed.

BICKNELL & TRASK,
Appearing specially for said Defendant for the Purpose of said Motion.

[Endorsed]: No. 587. In the Circuit Court of the United States in and for the Ninth Circuit, Southern District of California. United States of America, Plaintiff, vs. Southern Pacific Railroad Co. et al., Defendants. Motion to set aside service of summons. Filed April 2, 1894. Wm. M. Van Dyke, Clerk. Bicknell & Trask, Fulton Block, Los Angeles, Cal., Special Solicitors for Defendant, Southern Pacific Co.

In the Circuit Court of the United States for the Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Plaintiff,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.

No. 587.

State of California, County of Los Angeles. } ss.

Affidavit of J. A. Muir.

J. A. Muir, being duly sworn, deposes and says: That he is and was at all of the dates hereinafter mentioned in the employ of the defendant Southern Pacific Company, as division superintendent, and as such had charge, under the direction of A. N. Towne, second vice-president and general manager of said company, of the operating department of the line of the railroad operated by the Southern Pacific Company, said division extending from the city of Los Angeles to Yuma, Arizona territory, and branches operated by said Southern Pacific Company entering Los Angeles.

That said Southern Pacific Company is a corporation duly created and existing under the laws of the State of

Kentucky, and said corporation is operating a railroad in the State of California, extending from Portland, Oregon, south through the State of Oregon, and through the State of California, territories of Arizona, New Mexico, and State of Texas, to New Orleans, in the State of Louisiana; and also a line from San Francisco, through Nevada, to Ogden, in the territory of Utah, with several branches on said main lines.

That the principal place of business of said corporation in this State is at the city and county of San Francisco, and said corporation did, on the ninth day of December, 1884, by an order of its board of directors at a meeting duly held, designate William E. Brown, residing in the city and county of San Francisco, as the person upon whom process issued by the authority of or under any laws of the State of California may be served.

That a notice of the designation of said agent of the Southern Pacific Company was duly filed in the office of the secretary of state of the State of California on the twenty-fourth day of December, 1884.

Deponent further says that he is not, and never has been, the managing agent or business agent, cashier or secretary of said Southern Pacific Company within the State of California or elsewhere.

That for more than three months last past the following named officers of said company have resided, and still de reside, in San Francisco, in the State of California, and during all of said times have filled said offices, to wit:

Charles F. Crocker, vice-president; A. N. Towne, second vice-president and general manager; G. L. Lansing, secretary; N. T. Smith, treasurer.

That service of summons in said action was made upon deponent on February 21, 1894.

J. A. MUIR.

Subscribed and sworn to before me, this second day of April, 1894.

[Seal] WM. M. VAN DYKE,

Clerk and Commissioner of U. S. Circuit Court, Southern District of California.

[Endorsed]: No. 587. In the Circuit Court of the United States, in and for the Ninth Circuit, Southern District of California. United States of America, Plaintiff, vs. Southern Pacific Railroad Co. et al., Defendants. Affidavit of J. A. Muir. Filed April 2, 1894. Wm. M. Van Dyke, Clerk. Bicknell & Trask, rooms 14, 15, and 16, Fulton Block, Los Angeles, Cal., appearing specially for defendant Southern Pacific Co.

At a stated term to wit, the January term, A. D. 1894, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the seventh day of May, in the year of our Lord, one thousand eight hundred and ninety-four. Present: The Honorable ERSKINE M. ROSS, District Judge. United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants.

County of Los Angeles, }
State of California. }

UNITED STATES OF AMERICA,
Complainants,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al., } No. 587.
Defendants.

Affidavit of Publication of Order Directing Absent Defendants to Appear.

It having been made to appear to the Court that this is a suit to enforce a claim to certain real estate situated within this judicial district, the Southern District of California, and to remove a cloud upon the title to such real estate, and it further appearing to the Court that the Central Trust Company of New York, the Colorado River Irrigation Company, and D. O. Mills, trustee, defendants in said suit, are not inhabitants of and cannot be found within this State of California, and that neither of them is an inhabitant of, and neither of them can be found within this said State of California, and that said defendants will not voluntarily appear in said suit, and that it is not practicable to serve such defendants personally, nor any person or persons in possession or charge of said real estate, now, therefore, upon motion of Joseph H. Call, Esq., special assistant United States attorney for the Southern District of California, of counsel for complainants, in open court, it is ordered by the Court that the following named defendants in this suit, to wit, the

Central Trust Company of New York, the Colorado River Irrigation Company, and D. O. Mills, trustee, be required and hereby are ordered to appear in this court by the second day of July, 1894, and to plead, answer, or demur to the bill of complaint herein by the sixth day of August, 1894, and that a copy of this order certified by the clerk shall be published in the Daily Journal (a newspaper printed and published in the city and county of Los Angeles, State of California) once a week for six consecutive weeks between the date of this order and the second day of July, 1894.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court, May 7, 1894, in the cause, entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this eighth day of May, A. D. 1894.

[Seal] WM. M. VAN DYKE,
Clerk.

State of California,
County of Los Angeles. } ss.

C. W. Smith, of said county and state, being duly sworn, says: That he is and at all the times herein mentioned was a citizen of the United States, over eighteen years of age, and not a party to nor interested in the

above entitled action; that he is the principal clerk of the printer, publisher, and proprietor of "The Daily Journal," a newspaper printed and published daily in the said Los Angeles county; that the order directing absent defendants to appear in the above-entitled action, of which the annexed is a printed copy, was published in said newspaper at least once a week for six successive weeks, on the following days, to wit: May 12th, 19th, 26th; June 2d, 9th, 16th, 23d, 30th; all in 1894.

C. W. SMITH.

Subscribed and sworn to before me, this sixteenth day of July, 1894.

[Seal] A. C. BRODERSEN,
Notary Public.

[Endorsed]: No. 587. State of California, county of Los Angeles. United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants. Affidavit of publication of order directing absent defendants to appear. Filed July 16, 1894. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1895, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Wednesday, the twenty-third day of January, in the year of our Lord, one thousand eight hundred and ninety-five. Present: The Honorable ERSKINE M. ROSS, District Judge.

UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Order as to Use of Documentary Evidence from Other Causes, and Appointing Special Examiner.

On this twenty-third day of January, A. D. 1895, in open court, upon motion of Joseph H. Call, Esq., special United States attorney, and due notice having been given to counsel for the defendants and cause appearing therefor, it is ordered by the Court that in taking testimony in said cause before any master or examiner of the court, either party may introduce and use in evidence, subject to all other legal objections, any papers, records, depositions, exhibits or documentary evidence on file or of record in the cases of United States vs. Southern Pacific Railroad Company et al., numbered 68, 177, and 184 on the docket of this Court or in either of said cases, and, when so introduced in evidence and properly identified, such papers, records, depositions, exhibits, and documentary evidence shall be returned to their proper files in this Court.

And it is further ordered upon motion of counsel for complainant (notice to the defendants having been given by him that he desires the evidence to be adduced in said cause to be taken orally), and that all the witnesses to be examined shall be examined before one of the exami-

ners of the Court or before an examiner to be specially appointed by the Court.

And it is further ordered that Leo Longley be, and he is hereby, appointed a special examiner of this Court to take the testimony in said cause, which he may take in shorthand, and thereafter reduce it to writing or typewriting; and upon motion of counsel for complainant it is ordered that the complainant shall have thirty days from the date of this order within which to take its evidence in support of the bill, and thereafter, or from such time as complainant's counsel shall notify defendants' counsel that the complainant has completed the taking of its testimony in chief in support of the bill, the defendants shall have 60 days within which to take their evidence in defense, and thereafter, or from such date as defendants shall have completed the taking of their evidence in defense, the complainants shall have thirty days to take its testimony in reply.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

UNITED STATES OF AMERICA, Plaintiff,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

Stipulation.

It is hereby stipulated and agreed that no objection shall be made as to any evidence heretofore offered by either party in this case, upon the ground that such evidence was not offered in time, or that it is not in rebuttal, or because it is evidence in another case; and either party may, at any time before the day set for the argument of this case, introduce documentary evidence from the public records of any department of the United States, subject to such objections as may be interposed, other than those specified above.

JOSEPH H. CALL,
Special U. S. Attorney.

WM. SINGER, Jr.,
Attorney for the Defendants.

[Endorsed]: No. 587. Circuit Court, Ninth Circuit, Southern District of California. The United States of America vs. The Southern Pacific Railroad Co. et al. Stipulation. Filed January 2, 1896. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., Attorney for Defendant, Union Trust Building, San Francisco, Cal.

In the United States Circuit Court, Southern District of California, Ninth Circuit.

UNITED STATES,
Plaintiffs,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, Trustee, THE CENTRAL TRUST COMPANY, OF NEW YORK et al.,
Defendants.
No. 675.

SAME,
vs.
SAME.
No. 587.

SAME,
vs.
SAME.
No. 662.

Motion to Consolidate Causes Nos. 587, 662, and 675.

To the defendants in the above-entitled cases, and to William Singer, Jr., Bicknell & Trask, and Page, McCutchen & Eells, their solicitors:

You will please take notice that on Monday, the ninth day of March, 1896, at the hour of ten o'clock and thirty

minutes, A. M., or as soon thereafter as the matter can be heard, the United States will apply to the above-entitled Court at the federal court building in the city of Los Angeles California, in pursuance of section 921, United States Revised Statutes, for an order consolidating said three suits, and a further order that they be heard together upon a single record, and that the plaintiffs may have leave to file an amended bill of complaint in such consolidated cases, and that such consolidated cases shall be numbered 675.

JOSEPH H. CALL,
Special Asst. U. S. Attorney.

[Endorsed]: Nos. 675, 587, 662. United States Circuit Court, Southern District of California. United States vs. Southern Pacific Railroad Co. et al. Same vs. Same. Same vs. Same. Motion. Received copy of within notice, this third day of March, 1896. Bicknell & Trask, Wm. Singer, Jr., C., Attorneys for Defendants. Filed March 3, 1896. Wm. M. Van Dyke, Clerk. Joseph H. Call, Special U. S. Attorney.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES,

Plaintiff,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,

Defendants.

Consolidated No. 675.

Stipulation Amending Report of Testimony.

It is agreed that defendants' offer of Exhibit No. 18, on July 6, 1895, before Special Examiner Potter, in case No. 587, was by reference to defendants' Exhibit No. 59 in case No. 184; and the clerk of this Court is respectfully asked to erase "39," and substitute "59" therefor, in Special Examiner Potter's report of the defendants' said offer of defendants' Exhibit No. 18.

JOSEPH H. CALL,
Special Assistant U. S. Attorney.

WM. SINGER, Jr.,
Attorney for the Defendants.

[Endorsed]: Consolidated No. 675. United States Circuit Court, Ninth Circuit, Southern District of California. United States vs. Southern Pacific R. R. Co. et al. Stipulation amending report of testimony. Filed January 24, 1899. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., Rooms 61-2, Union Trust Building, San Francisco, Cal., Attorney for defendants.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Complainants,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.

Consolidated No. 675.

Order Correcting Examiner's Report.

Pursuant to the stipulation signed by the solicitors for the respective parties to the above-entitled cause, and it appearing to the Court therefrom that defendants' offer of Exhibit No. 18, on July 6, 1895, before Special Examiner Potter, in case No. 587, was by reference to defendants' Exhibit No. 59 in case No. 184, it is hereby ordered that the clerk of this Court erase "39" and substitute "59" therefor, in said Special Examiner Potter's report of the defendants' said offer of defendants' Exhibit No. 18.

Dated: Los Angeles, January 24, 1899.

ROSS,

Circuit Judge.

[Endorsed]: 675. United States Circuit Court, Southern District of California. The United States of America vs. Southern Pacific Railroad Company. Order correcting examiner's report. Filed January 24, 1899. Wm. M. Van Dyke, Clerk.

At a stated term, to wit, the January term, A. D. 1899, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the seventeenth day of April, in the year of our Lord, one thousand eight hundred and ninety-nine. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

UNITED STATES OF AMERICA, Complainant, vs. SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.	Consolidated Nos. 587, 675, 662.

Order Allowing Defendant to File Exhibit Nunc Pro Tunc.

Upon motion of William Singer, Jr., counsel for defendants, and Joseph H. Call, special U. S. attorney, consenting thereto.

It is ordered that the defendants may file in evidence in this cause, nunc pro tunc, as of date of the filing of the deposition in this cause of W. H. H. Hart, the original of a contract dated December 8, 1893, between the Southern Pacific Railroad Company and the Colorado River Irrigation Company, number 11,322, and, upon filing such contract, that the original may be withdrawn upon substitut-

ing a copy duly certified by the clerk of this court, said original contract and substituted copy to be subject to all valid objections as to its competency, by the United States.

Defendants' Exhibit No. 46.

(Before Special Examiner Potter.)

Contract No. 11,322.

This agreement, made and entered into in duplicate this eighth day of December, 1893, between the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the United States and of the State of California, party of the first part, and the Colorado River Irrigation Company, a corporation duly organized and existing under the laws of the State of Colorado, party of the second part, witnesseth as follows:

First. The party of the first part agrees to sell and convey to the party of the second part, for the price of two dollars and fifty cents ($2.50) per acre, in U. S. gold coin, on the terms hereinafter specified, its unimproved odd-numbered sections of land situate in Riverside and San Diego counties, in the State of California, in the territory lying between the following boundaries, viz: On the south, the international line separating California from Mexico; on the north, the railroad station at Indio in Riverside county, California; on the east and west, the east and west branches of the canals of said Colorado River Irrigation Company as finally surveyed and located by the said party of the second part, and generally desig-

nated upon the annexed map marked "A," and made a part hereof; and, for the purpose of obtaining a more particular description of the said east and west boundaries, the said party of the second part hereby agrees that it will, on or before July 1, 1895, finally survey and locate upon the ground the said eastern and western branches of its canals above mentioned, and will furnish to the party of the first part a plat or map of such survey and location within said time; and immediately thereupon the parties hereto will execute a supplemental agreement with map or plat attached, particularly defining and designating the said eastern and western boundaries of the land above mentioned and herein agreed to be sold and conveyed.

Second. The party of the second part agrees to buy from the party of the first part the lands mentioned above in the first article of this agreement, and to pay therefor two dollars and fifty cents ($2.50) per acre, at the times and with the interest as hereinafter stated.

Third. It is agreed by and between the parties hereto, and the understanding is, that there is expressly excepted and withheld from this contract, all rights of way now used or that may be hereafter required by the party of the first part for the main line, branches, side tracks and switches of its railroad; also all lands that are or may hereafter be required for railroad yards, or terminals, or depots, shops, warehouses, hotels, station buildings, and for all uses incidental or convenient to the operating of its railroads or the development of its railroad business; also all parcels of land in said odd-numbered sections

heretofore conveyed or contracted to be conveyed by the party of the first part, but no deduction from the acreage of lands to be paid for hereunder shall be made for a right of way one hundred (100) feet in width as above reserved.

It is also agreed that the party of the first part shall have the sole right to decide what lands shall be withheld from sale under this contract for any purpose or reason in this article mentioned, provided only that said party of the first part shall exercise its right so to withhold any piece or parcel of land not later than thirty (30 days after the party of the second part shall have asked a conveyance and offered payment therefor.

Fourth. Payment for the lands hereby agreed to be sold shall be made to the party of the first part at its land-office in the city and county of San Francisco, California, as follows:

As to all lands for which United States patents shall have been issued within ten years from the date hereof, the full price therefor shall be paid on or before the expiration of said ten years.

As to all lands for which United States patents shall be issued after ten years from the date hereof, full payment therefor shall be made within ninety (90) days after written notice of the issuing of the patents therefor given by the party of the first part to the party of the second part.

All purchase money for said lands not paid on or before the first day of June, 1896, shall thereafter bear interest until paid at the rate of six (6) per cent per annum, payable annually on the first day of June in each year thereafter; provided, however, that as to all lands lying south

of the third parallel south, designated on said map "A," hereto attached, and covered by the alleged maps of location of the line of the Texas Pacific Railroad Company, sometimes called the Texas & Pacific Railroad Company, payment of interest may be deferred until the alleged title, or cloud upon title, based upon said maps of location, has been quieted or removed. In all cases where the payment of interest is deferred, as above provided, such interest shall be compounded annually at six per cent (6) per annum, commencing with the interest day of June 1, 1897.

It is hereby agreed that if the United States' patents to the party of the first part shall not have been issued within ten (10) years from the date hereof for any of said lands lying south of the third parallel south, above described, and the party of the second part shall be enabled to secure said patents by reason of this contract, or if it should secure title by reason of any legislation applying to lands sold by railroad companies under the acts of Congress now existing, or that may be passed hereafter in relation thereto, then and in that event the party of the second part may deduct from the purchase price for said lands last above described the amount by it paid to the general government for any of said lands, not exceeding one and twenty-five hundredths dollars ($1.25) per acre; provided, however, that if the party of the second part shall obtain title to said lands in bulk by legislation existing, or that may hereafter be passed, then and in that event the party of the second part shall pay to the party of the first part the sum of one and twenty-five hundredths dollars ($1.25)

per acre, irrespective of the amount paid to the general government.

It is understood and agreed that the party of the first part will obtain United States patents to all of said lands as soon as practicable, and to the best of its ability.

Fifth. It is understood and agreed that the purpose of this contract is to bring said lands into market and under cultivation in small holdings, and with irrigating rights; and to effect said purpose it is agreed that the said party of the second part shall not hold any of said lands at a higher price than fifty dollars ($50) per acre, except that lands within two (2) miles from the center of any townsite laid out by the party of the second part may be held at higher prices; provided, that no two of such townsites shall be laid nearer than twelve (12) miles from each other, measuring from the center of each townsite. And said party of the second part agrees to put said lands on the market as soon as practicable after its canals and irrigating ditches shall have been constructed so as to supply water for said lands and as such construction progresses.

Sixth. Whenever full payment, principal and interest, is made as hereinbefore provided, for any of the legal subdivisions of said lands, as designated by the Government maps, herein contracted to be sold, the party of the first part, after receipt of United States patents therefor, will thereupon convey the lands so paid for in full to the party of the second part by deed of grant, bargain, and sale, reserving all claim of the United States to the same as mineral land, and also the right (which is hereby granted by

the party of the second part to the party of the first part) to use all water from any of the ditches, reservoirs, or wells upon said lands necessary or convenient for the operation or repair of said railroads, and upon condition that the party of the second part, its successors and assigns, shall at all times build and maintain good and sufficient fences on both sides of the right of way of said railroads now constructed, or which may be hereafter constructed through the said lands.

The party of the second part may make full payment as above provided for any of said lands by legal subdivisions as designated by the Government maps, at any time before the issuing of United States patents therefor to the party of the first part, in which case the party of the first part shall execute contracts for deeds for such lands, which the party of the second part may assign to purchasers; provided that in such cases the party of the second part will not, and it hereby covenants and agrees not to, sell the land covered by said contracts for less than twelve and fifty hundredths dollars ($12.50) per acre.

Seventh. From time to time as parcels of the lands in this contract described are sold or disposed of by the party of the second part, it will pay, and hereby agrees to pay, to the party of the first part, one-fourth of the excess received by it for said lands, over and above the price paid therefor by it to the party of the first part as hereinbefore provided, such excess payments to be made and applied upon account of the purchase price above provided for said lands, and to be continued until the principal and interest of such purchase price are fully paid. Within

thirty (30) days after the receipt of any of said excess payments by the party of the first part, it shall have the right to apply such payment to the purchase of any specific legal subdivision of said lands for which it then holds a United States patent, and shall give the party of the second part written notice of such application as scon as the same is made as aforesaid.

Eighth. In consideration of the making of this agreement it is hereby agreed by the said party of the second part that it will pay or cause to be paid, promptly, when due, all taxes and assessments of every kind and nature that may be levied for the year 1894, and thereafter, upon said lands described in this agreement; and if the party of the second part shall fail, neglect, or omit to pay said taxes and assessments, or any part thereof, when and as they become due and payable, then the party of the first part may pay the same or buy in the land at tax sale, and the sum so paid, with the amounts of legal penalties for delinquency, shall be added to and become part of the unpaid remainder of purchase money for said land, and shall bear interest at the same rate, and shall be paid on demand at the place hereinbefore provided for the payment of purchase money and interest thereon.

Ninth. The said party of the second part further agrees that it will pay the expenses of making, executing, and recording all deeds, contracts, assignments, and mortgages that may be necessary to be executed either by or to the said party of the first part to convey said land, not exceeding two dollars and fifty cents ($2.50) for drawing each document so executed, and in addition thereto the legal fees for acknowledging and recording the same.

Tenth. It is further agreed by and between the parties hereto, inasmuch as the canal of the said party of the second part will pass over and across the tract of land known as the "Yuma Indian Reservation," that in the event that said "Yuma Indian Reservation," or any part thereof, shall be thrown open for settlement, and if in such case the party of the first part shall be entitled to claim and hold any part of the land now included in said reservation, then this contract of purchase is intended to and shall include each and all odd-numbered sections belonging to said party of the first part through which the canal of said party of the second part shall pass, and also all such odd-numbered sections as it shall obtain within the limits or said Indian reservation, lying at a lower grade than said canal and capable of being irrigated therefrom.

Eleventh. The party of the second part shall prosecute work on its canals with due diligence, and shall not suspend work on them for a longer period than four (4) months in any one year, and shall distribute water for irrigation upon the lands herein mentioned before it makes any general distribution of water from its canals in Lower California, south of the northern boundary of Mexico.

Twelfth. From and after the execution of this contract the party of the second part shall have the right to enter on said lands for the purpose of constructing its canals and ditches, and to occupy the right of way necessary therefor, and also to use said lands for pasturage, paying to the said party of the first part on account of the sums due under this contract all moneys earned and received from said pasturage.

Thirteenth. It is further agreed and understood by and between the parties hereto that possession of the lands herein mentioned is given to the party of the second part at the time of signing this contract, but said possession, and all rights of the party of the second part under this instrument, are dependent upon strict compliance with and fulfillment of all of its terms by said party of the second part; and it is further agreed that until the full payment of purchase money and interest, taxes, and assessments, no strip or waste shall be made on said premises without the previous written consent of the party of the first part.

Fourteenth. It is further agreed and understood that time is of the essence of this contract, and that if the party of the second part shall fail to make punctually any of said payments of interest or purchase money, or shall fail to comply strictly with any of the stipulations of this contract, and shall remain in default for ninety (90) days from and after receipt of written notice from the party of the first part of the amounts due, then, from and after the expiration of the said period of ninety (90) days, this contract shall be ended, and all the rights of the said party of the second part therein terminated, and the party of the second part forever foreclosed of any rights of purchase or title or interest therein or thereunder; and the said party of the first part shall retain and keep unto itself all the moneys paid to it by said party of the second part, as payment in full for the use, occupation, possession, and the privilege of using, occupying, and possessing said lands and premises, from the date of entering into

this contract of purchase, and until the termination thereof as aforesaid, and said party of the first part, its successors or assigns, may, without notice, enter upon, take, and hold possession of the said premises with all the improvements thereon.

Fifteenth. Should the lands mentioned in this agreement, or any of them, remain with or revert to the party of the first part after the party of the second part shall have constructed any of its proposed canals or ditches, the party of the second part will sell to the party of the first part, or any of its vendees, at the time when they shall elect to buy, water rights from said ditches for the irrigation of such of said lands as may be accessible therefrom, at prices not exceeding those charged to other persons, said water rights to be for water of sufficient quantity to insure the through irrigation of such lands.

Sixteenth. It is further agreed that this contract shall not be assignable except by endorsement, and with the written consent of the party of the first part, and the written promise of the assignee to perform all the undertakings and promises of the said party of the second part as hereinbefore set forth.

Seventeenth. The party of the second part hereby agrees to have this contract approved, confirmed, and ratified by its stockholders by resolution duly passed at the next annual meeting of said stockholders, to be held in the month of July, 1894, and will, within one month thereafter, furnish to the party of the first part a duly certified copy of such resolution.

In witness whereof, the said party of the first part has caused these presents to be signed in duplicate by its secretary and its land agent, and sealed with its corporate seal; and the said party of the second part likewise in duplicate has caused its name to be signed by its president and secretary, and sealed with its corporate seal, being thereunto duly authorized by resolution of its board of directors. Note: In 14th article hereof, in 8th line from bottom of page 8, after the word "and," the words "after the" were interlined before signing.

JEROME MADDEN,
Land Agent So. Pac. R. R. Co.

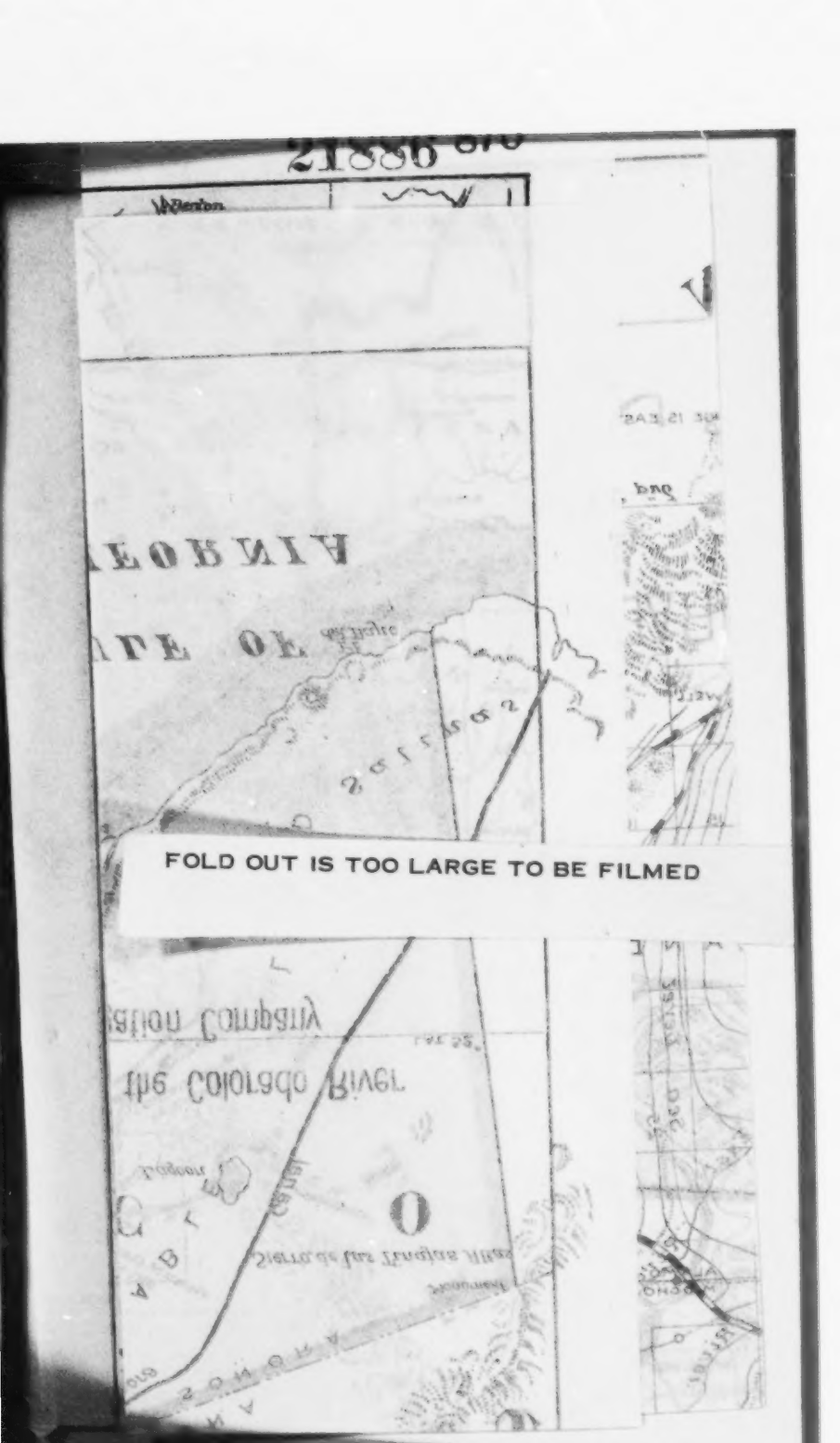
J. L. WILLCUTT,
Secretary So. Pac. R. R. Co.
[Seal S. P. R. R. Co.]

C. H. DOW,
President Colo. Riv. Irr. Co.

P. J. McLEAN,
Secretary Colo. Riv. Irr. Co.

[Seal C. R. I. Co.]

[Endorsed]: No. 675. Consolidated. No. 11,322. Contract for a deed, Southern Pacific Railroad Company to the Colorado River Irrigation Company. Dated December 8, 1893. 66 Broad St., New York. U. S. vs. S. P. Consolidated Nos. 675, 587, and 662. Defendants' Exhibit No. 46. Stephen Potter, Special Examiner. Filed April 17, 1899. Wm. M. Van Dyke, Clerk. Chas. N. Williams, Deputy. Nunc pro tunc as of February 3, 1898, by order of Court.



FOLD OUT IS TOO LARGE TO BE FILMED

Route to San Gabriel
LOWER CALIFORNIA
CALIFORNIA
SIERRA MADRE
SALTON SINK
Colorado River

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Complainant,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

Stipulation.

It is stipulated by and between the parties to the above-entitled cause, and by and between their respective solicitors, that the testimony of the defendants herein, so far as possible, may be taken in the city and county of San Francisco, before Stephen Potter, Esq., as special examiner and stenographer.

And it is furthermore stipulated that the necessary order is hereby agreed upon, and shall be obtained from the Court, appointing the said Stephen Potter as special examiner for this purpose; and that the witnesses to be examined in San Francisco in said cause on behalf of the defendants, when sworn by said special examiner and having testified in the presence of counsel for both parties, and their testimony reported by said Stephen Potter, so acting as special examiner, and taken down by him in shorthand, and reduced to writing, and signed by said witnesses, and returned by him to the clerk of this court, that the same shall be deemed to be regular in all respects.

It is furthermore stipulated that documentary evidence introduced by the defendants, or by the complainant on cross-examination, before said Stephen Potter, special examiner, etc., and marked by him as introduced before him and returned by him to the clerk of said court, shall be deemed to have been introduced with due regularity and with full force and effect.

It is furthermore agreed that the taking of testimony pursuant to this stipulation shall commence in the city and county of San Francisco on July 6, 1895, in the Hobart Building, corner of Market and Montgomery streets, and shall continue at the convenience of the respective counsel until completed.

The said Stephen Potter is hereby further requested to make a transcript of all proceedings taken before him in pursuance of this stipulation, and to file the original with William M. Van Dyke, clerk of this court.

It is furthermore stipulated that where objections are made by the respective counsel to the introduction of any testimony, or to the testimony of any witness, that thereafter the words, when entered by the said special examiner, "Same objection," shall be deemed to be a complete repetition of the last-named objection in full, and shall be so entered by the special examiner, unless otherwise directed by the counsel making the objection.

San Francisco, July 6, 1895.

JOSEPH H. CALL,
Solicitor for Complainant and Special Assistant United States Attorney.

JOSEPH D. REDDING,
Solicitor for Defendants.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Complainant,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.

Testimony.

In pursuance of the above stipulation, and also in pursuance of the following order of Court, namely:

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Complainant,

vs.

S. P. R. R. CO. et als., Defendants.

Nos. 587 and 600.

In the two above-entitled causes, upon application and consent of the solicitors of all parties in both actions, it is hereby ordered that Stephen M. Potter, Esq., be, and he is hereby, appointed special examiner in San Francisco, to take the testimony of the defendants in the two

above-named actions, and to report the same to the clerk of this court.

July 2, 1895.

[Signed]

ROSS,
Circuit Judge.

There appeared before me this 6th day of July, 1895, at the Hobart Building in San Francisco, California, at 10:15 o'clock A. M., Joseph H. Call, Esq., solicitor for the complainant, and special assistant United States attorney, and Joseph D. Redding, Esq., solicitor for the defendants, and thereupon the following proceedings took place:

Mr. REDDING.—Defendants offer in evidence certified copy of articles of association and incorporation of the Southern Pacific Railroad Company, dated November 29, 1865, marked "Master's Exhibit No. 195," in the case of the United States vs. The Southern Pacific Railroad Company et al., numbered 68 on the docket of this court, and ask that it be marked "Defendants' Exhibit No. 1."

Mr. REDDING.—Defendants next offer in evidence certified copy of the articles of association, etc., between the Southern Pacific Railroad Company and other railroad companies, dated October 11, 1870, marked "Master's Exhibit No. 102," in said case No. 68, and ask that it be marked "Defendants' Exhibit No. 2."

Mr. REDDING.—Defendants next offer in evidence deposition of J. L. Willcutt, taken in case No. 184 on the docket of this court, and ask that it be marked "Defendants' Exhibit No. 3."

(Objected to by Mr. Call as incompetent, immaterial and irrelevant, and upon the further grounds specifically set forth in said deposition.)

Mr. REDDING.—Mr. Call, I understand that under our stipulation and agreement it is agreed that the depositions of various witnesses taken in case No. 184 shall be introduced in this cause by either party with the same force and effect as if they had been taken originally in this cause, but subject to the objections interposed at the time of the examination of the witness in the original deposition itself, or which may be made now, except that there shall be no objection made upon the ground that they are depositions taken in another cause.

Mr. CALL.—That is the understanding.

Mr. REDDING.—Defendants next offer in evidence deposition of Charles J. Wilder, taken in case No. 184, and ask that it be marked "Defendants' Exhibit No. 4."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence deposition of Jerome Madden, taken in case No. 184, eliminating therefrom the exhibits attached to his deposition which refer to the lands involved in case No. 184, and the testimony which refers solely to the lands involved in case No. 184, and ask that the same be marked "Defendants' Exhibit No. 3."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence deposition of G. L. Lansing, taken in case No. 184, and ask that it be marked "Defendants' Exhibit No. 6."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence deposition of William Hood, taken in case No. 184, and ask that it be marked "Defendants' Exhibit No. 7."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence deposition of Charles F. Crocker, taken in case No. 184, and ask that it be marked "Defendants' Exhibit No. 8."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of map of general route of the Southern Pacific Railroad under its grant from Congress of March 3, 1871, from Tehachapi Pass, by way of Los Angeles, to the Colorado river, with letter of the secretary of the interior to the commissioner of the general landoffice, dated April 3, 1871, endorsed thereon, being Exhibit No. 45 before Examiner Lamme in case No. 184, also being Master's Exhibits 131 and 132 in case No. 68; and with the same defendants also offer the certificate attached to said map and said letter showing them to be true exemplifications of the originals on file, and ask that the same be marked "Defendants' Exhibit No. 9."

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of letter dated April 21, 1871, from the commissioner of the general landoffice to the register and receiver at Los Angeles, marked "Master's Exhibit No. 133" in case No. 68, and ask that it be marked "Defendants' Exhibit No. 10."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of letter from Walter H. Smith, acting secretary, dated Washington, April 3, 1871, addressed to Charles Crocker, President of the Southern Pacific Rail-

road Company, marked "Defendants' Exhibit before the Special Examiner No. 65," in case No. 184, together with the certificate of Stephen Potter, special examiner in case No. 184, and ask that the same be marked "Defendants' Exhibit No. 11."

(Same objection.)

J. L. WILLCUTT, called as a witness on behalf of defendants, being first duly sworn, testified as follows:

Direct Examination.

Mr. REDDING.—Q. Were you the secretary of the Southern Pacific Railroad Company in 1871?

A. Yes, sir.

Q. Can you produce the official records of that company during that year?

A. I have them here (producing records).

Q. Have you produced them before the special examiner? A. Yes, sir; these are the records.

Q. Will you please state whether there was a meeting of the stockholders of that corporation, or of its directors, on the 11th of April, 1871?

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant.)

A. There was a meeting both of stockholders and of the directors on April 11, 1871.

Q. What was the object of the meeting of the stockholders on that date as appears from your official record?

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant, and not the best evidence, and not the evidence of any requirement of the law.

A. The object was to adopt an amended certificate of incorporation, so as to enable the company to accept the grant of March 3, 1871, and to provide means for the construction of the additional railroad.

Q. What resolutions were adopted by the stockholders on that day?

(Same objection.)

A. "Resolved, that the board of directors of this company be and are hereby required and directed to prepare and file amended articles and certificate of incorporation as required by law, to enable this company to accept said grant and to construct and operate said additional railroad."

Q. State whether you have an official record of any resolution of the board of directors accepting the terms and conditions of the grant of Congress to the Southern Pacific Railroad Company of March 3, 1871.

(Same objection.)

A. I have.

Q. Will you have made a certified copy of this resolution?

(Same objection.)

A. I will.

Mr. REDDING.—Defendants offer in evidence certified copy of a resolution of the board of directors of the Southern Pacific Railroad Company, accepting the terms and conditions of the grant of Congress to that company, of March 3, 1871, and instructing the secretary to send a copy of said resolution, certified under the seal of the company, to be filed with the secretary of the interior,

and ask that it be marked "Defendants' Exhibit No. 12."

(Same objection.)

(Certified copy of a resolution of the board of directors of the Southern Pacific Railroad Company accepting the terms and conditions of the grant of Congress to that company of March 3, 1871, and instructing the secretary to send a copy of said resolution, certified under the seal of the company, to be filed with the secretary of the interior, is marked by the special examiner "Defendants' Exhibit No. 12, Stephen Potter, Special Examiner," and the same is attached hereto.)

Mr. REDDING.—Was there a copy of said resolution forwarded to the secretary of the interior under your direction?

(Same objection.)

A. Yes, sir.

Q. Was its receipt acknowledged by the secretary of the interior?

(Same objection.)

A. Yes, sir.

Q. Does this appear upon the files and records of the Southern Pacific Railroad Company?

(Same objection.)

A. It does.

(No cross-examination.)

J. L. WILLCUTT.

Mr. REDDING.—Defendants next offer in evidence map showing the definite location and constructed line of the Southern Pacific Railroad Company under its grant of March 3, 1871, from San Fernando to Spadra, being

Exhibit No. 60 before Examiner Potter in case No. 184, with the certificate of exemplification attached thereto, and ask that the same be marked "Defendants' Exhibit No. 13."

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant.)

Mr. REDDING.—Defendants next offer in evidence map showing the definite location of the constructed line of the Southern Pacific Railroad Company under its grant of March 3, 1871, from Spadra to San Gorgonio, with the certificate of exemplification attached thereto, being Exhibit No. 61, before Examiner Potter in case No. 184, and ask that the same be marked "Defendants' Exhibit No. 14."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of map showing the definite location and constructed line of the Southern Pacific Railroad Company from San Gorgonio to Indian Wells, under its grant of March 3, 1871, with certificate of exemplification attached thereto, being Exhibit No. 62, before Examiner Potter in case No. 184, and ask that the same be marked "Defendants' Exhibit No. 15."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence map showing the definite location and the constructed line of the Southern Pacific Railroad Company under its grant of March 3, 1871, from Indian Wells to Yuma, with certificate of exemplification attached thereto, being Ex-

hibit No. 63 before Examiner Potter in case No. 184, and ask that it be marked "Defendants' Exhibit No. 16."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence map showing the definite location and constructed line of the first and second sections of the Southern Pacific Railroad Company's branch line under its grant of March 3, 1871, east from San Fernando, California, together with the twenty and thirty adjusted permanent limits, being Master's and Examiner's Exhibit No. 38 before Examiner Lamme in case No. 184, together with the authentication and exemplification of the same, and ask that it be marked "Defendants' Exhibit No. 17."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of map of the definite location and constructed line of the Southern Pacific Railroad Company of the fourth section of its line of road as constructed under the act of March 3, 1871, marked Master's and Examiner's Exhibit No. 59 before E. H. Lamme in case No. 184, and ask that it be marked "Defendants' Exhibit No. 18."

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant, and upon the further ground that said map is not authenticated as being a copy of any record of the interior department.)

Mr. CALL.—I object to the introduction of the above-mentioned pretended maps, marked Defendants' Exhibits from 13 to 18, inclusive, and to each of them, upon the ground above-mentioned, and upon the further

ground that said maps are not, and do not purport to be, maps of definite location of the Southern Pacific Railroad, but maps of withdrawal or diagrams in the general landoffice.

Mr. REDDING.—Defendants next offer in evidence exemplified copy of the report of the United States railroad commissioners, dated April 7, 1874, showing the approved construction of the first section of fifty miles of the railroad and telegraph line of the Southern Pacific Railroad Company under the act of March 3, 1871, commencing at a point in the northwest quarter of section three, township two north, range fifteen west, S. B. M., thence running in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, and ending at the termination of the fifty miles therefrom at a point near the northeast quarter of section twenty-seven, township one south, range nine west, S. B. M., together with the certificate of William H. Sims, acting secretary of the interior department exemplifying the same, dated Washington, D. C., September 30, 1893, and also the approval of said report by the secretary of the interior, addressed to the President of the United States, and the approval of the President of the United States attached to said report, being "Defendants' Exhibit before the Special Examiner No. 29" in case No. 184, and ask that it be marked "Defendants' Exhibit No. 19."

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant, and upon the further ground that the map of location accompanying said report is not attached thereto, and upon the further ground that it does not ap-

pear that said pretended commissioners were authorized to make such report.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of the report of the United States railroad commissioners of October, 1875, showing the approved construction of the two sections of said last-mentioned railroad, commencing at the point last named and ending at a point in the southwest quarter of section four, township three south, range one west, S. B. M., together with the certificate of exemplification of the same of William H. Sims, acting secretary of the interior department, dated Washington, D. C., September 30, 1893, and also the approval of said report by the secretary of the interior, addressed to the President of the United States, and the approval of the President of the United States attached to said report, being "Exhibit 30 before Examiner Potter in case No. 184," and ask that the same be marked "Defendants' Exhibit No. 20."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of the report of the United States railroad commissioners of June, 1876, showing the approved construction of the line of railroad last named, under said act, commencing at the termination of section two, and ending at a point in the southwest quarter of section twenty-four in township five south, range seven east, S. B. M., together with the certificate of exemplification thereof of William H. Sims, acting secretary of the interior department, dated Washington, D. C., October 2, 1893, and also the approval of said report by the secretary

of the interior, addressed to the President of the United States, and the approval of the President of the United States attached to said report, and marked "Exhibit 31 before Examiner Potter in case No. 184," and ask that the same be marked "Defendants' Exhibit No. 21."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of the report of the United States railroad commissioners of February, 1877, showing the approved construction of the road, commencing at the initial point of section No. 1 of said railroad heretofore reported upon, and ending in the northeast quarter of section seventeen, towsnhip eleven north, range twelve west, S. B. M., together with the certificate of exemplification of William H. Sims, acting secretary of the interior department, dated Washington, D. C., October, 1893, and also the approval of said report by the secretary of the interior to the President of the United States, and the approval of the President of the United States attached to said report, marked "Defendants' Exhibit No. 32 before Examiner Potter in Case No. 184," and ask that the same be marked "Defendants' Exhibit No. 22."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence exemplified copy of the report of the United States railroad commissioners showing the approved report upon the construction of the fifth section of said Southern Pacific Railroad, commencing at the termination of section number three, and ending at the southern boundary of the State of California in the center of the Colorado

river, together with the certificate of exemplification thereof of William H. Sims, acting secretary of the interior department, dated Washington, D. C., October 2, 1893, together with the approval thereof by the secretary of the interior and his letter to the President of the United States, and the approval of the President of the United States attached to said report, marked "Exhibit No. 33 before Examiner Potter in Case No. 184," and ask that the same be marked "Defendants' Exhibit No. 23."

(Same objection.)

(The further hearing of the matter was then continued by consent until Monday, July 8, 1895, at 10:30 A. M.)

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

San Francisco, July 8, 1895.

Mr. REDDING.—In connection with the above reports of the constructed line of the Southern Pacific Railroad Company under the grant of March 3, 1871, from Tehachapi by way of Los Angeles to Fort Yuma, defendants offer in evidence exemplified copy of map and profile of sec-

tion No. 4 of the Southern Pacific Railroad and Telegraph line, authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3, 1871, commencing at a point in the northwest quarter of section three, township two north, range fifteen west, S. B. M., and running thence in a northerly direction 78.59 miles to a point in the northeast quarter of section seventeen, township eleven north, range twelve west, S. B. M., showing the definite location and construction of the road from its initial point at Mojave to said northeast quarter of section seventeen, township eleven north, range twelve west, the same being filed with the report of the railroad commissioners upon the said road so constructed, heretofore introduced in evidence in case No. 184 in this court, and therein marked "Defendants' Exhibit before the Special Examiner No. 59, Stephen Potter, Special Examiner," and ask that it be marked "Defendants' Exhibit No. 24."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence in connection with the above reports of the constructed line of the Southern Pacific Railroad Company, under the grant of March 3, 1871, from Tehachapi, by way of Los Angeles, to Fort Yuma, exemplified copy of map and profile of section No. 1 of the Southern Pacific Railroad and Telegraph line, authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3, 1871, commencing at a point in the northwest quarter of section three, township two north, range fifteen west, S. B. M., and running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction

to a point in the northeast quarter of section twenty-seven, township one south, range nine west, S. B. M., showing the definite location and construction of the road between said points, the same being filed with the report of the railroad commissioners upon the said road so constructed, heretofore introduced in evidence in case No. 184 in this Court, and therein marked "Defendants' Exhibit before the Special Examiner No. 60, Stephen Potter, Special Examiner," and ask that it be marked "Defendants' Exhibit No. 25."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same connection, exemplified copy of map and profile of section No. 2 of the Southern Pacific Railroad and Telegraph line, authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3, 1871, commencing at a point in the northeast quarter of section twenty-seven, township one south, range nine west, S. B. M., and running thence in a southeasterly direction to a point in the southwest quarter of section four, township three south, range one west, S. B. M., showing the definite location and construction of the road between said points, the same being filed with the report of the railroad commissioners upon the said road so constructed, heretofore introduced in evidence in case No. 184 in this Court, and therein marked "Defendants' Exhibit before the Special Examiner No. 61, Stephen Potter, Special Examiner," and ask that it be marked "Defendants' Exhibit No. 26."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same connection, exemplified copy of map and profile of a section of the Southern Pacific Railroad and Telegraph line, authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3, 1871, commencing at a point in the southwest quarter of section four, township three south, range one west, S. B. M., running thence in a southeasterly direction fifty miles to a point in the southwest quarter of section twenty-four, township five south, range seven east, S. B. M., showing the definite location and construction of the road between said points, the same being filed with the report of the railroad commissioners upon the said road so constructed, heretofore introduced in evidence in case No. 184 in this Court, and therein marked "Defendants' Exhibit before the Special Examiner No. 62, Stephen Potter, Special Examiner," and ask that it be marked "Defendants' Exhibit No. 27."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same connection, exemplified copy of map and profile of a section of the Southern Pacific Railroad and Telegraph line, authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3, 1871, commencing at a point in the southwest quarter of section twenty-four, township five south, range seven east, S. B. M., running thence in a southeasterly direction 118.37 miles to a point in the southeast quarter of section twenty-six, township sixteen south, range twenty-two east, S. B. M., to Fort Yuma, showing the definite location

and construction of the road between said points, the same being filed with the report of the railroad commissioners upon the said road so constructed, heretofore introduced in evidence in case No. 184 in this Court, and therein marked "Defendants' Exhibit before the Special Examiner No. 63, Stephen Potter, Special Examiner," and ask that it be marked "Defendants' Exhibit No. 28."

(Same objection.)

(Whereas, the defendants propose to procure certified copies of certain maps and reports from the public records at Washington, it is agreed that the defendants may now offer in evidence such certified copies, and when so procured and filed to be of the same effect as if now produced, subject to the objections hereinafter made.)

Mr. REDDING.—With further reference to the approved location and construction of the railroad by the Southern Pacific Railroad Company, under the act of Congress of March 3, 1871, from a point at or near Tehachapi Pass by way of Los Angeles to Fort Yuma on the Colorado river, the defendants refer to the annual reports of the secretary of the interior for the years 1875, 1876, 1877, and 1878, showing therein that the records of the interior department set forth that the said road upon the line authorized by the act of March 3, 1871, has been constructed and accepted by the President of the United States as having been constructed and completed in all respects as required by law as follows:

The first section of 50 miles accepted May 9, 1874;

The second section of 50 miles accepted October 11, 1875;

The third section of 50 miles accepted July 21, 1876;

The fourth section of 78 59-100 miles accepted March 2, 1877;

And the fifth section of 118 miles, accepted in January, 1878, completing the road to the Colorado river.

Mr. CALL.—Complainants object to the whole of such evidence, and to each item thereof, on the ground that the same is incompetent, immaterial, and irrelevant.

(It is agreed between counsel that the time for taking testimony on behalf of defendants is extended thirty days from July 15, 1895.)

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Complainant,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

Certificate of Special Examiner.

I certify that the foregoing testimony was taken and proceedings had in the above-entitled cause, before me, pursuant to the stipulation and order hereunto prefixed, in the city and county of San Francisco, State of California, in the Hobart building, corner of Market and Montgomery streets, commencing on the 2d day of July, 1895, and continuing thereafter, at the several times set forth,

until completed, in my presence, and in the presence of counsel for the respective parties to said cause.

That previous to giving his testimony each of the witnesses named in said testimony and proceedings was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in said cause.

That said testimony and proceedings were taken down in shorthand writing and transcribed by me pursuant to said stipulation.

That the testimony of each witness, after being transcribed, referred to and specified therein, excepting such as, by agreement of counsel, were taken from other causes and introduced in this cause by reference thereto.

I further certify that I am not attorney nor of counsel for any of the parties to said cause, nor in any way interested in the event thereof.

In witness whereof, I have hereunto set my hand, this twentieth day of July, A. D. 1895.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Filed February 10, 1896. Wm. M. Van Dyke, Clerk.

Exhibit Articles of Association S. P. R. R. Co.

Engraving.

State of California, Department of State.

I, H. L. Nichols, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of articles of association of the Southern Pacific Railroad Company, now on file in my office.

Witness my hand and the great seal of state, at office in Sacramento, California, the twenty-first day of December, A. D. 1868.

[Seal]

H. L. NICHOLS,
Secretary of State.
Lew B. Harris,
Deputy.

Southern Pacific Railroad Company.—Articles of Association.

Know all men by these presents, that we, the undersigned, being subscribers to the stock of a contemplated railroad from some point on the bay of San Francisco, in the State of California, through the counties of Santa Clara, Monterey, San Luis Obispo, Tulare, Los Angeles, and San Diego, to the town of San Diego, in said State, thence eastward through the said county of San Diego to the eastern line of the State of California, there to connect with a contemplated railroad from said eastern line of the State of California to the Mississippi river, which stock subscribed by us amounts to at least one thousand dollars for each and every mile of said proposed railroad, and of which ten per cent in cash has been actually and in good faith paid thereon to B. W. Hathaway, one of our number, who has been by us appointed temporary treasurer; and being desirous of forming *of forming* a corporation—do hereby, at a regular meeting of said stockholders, held pursuant to due notice thereof in writing given by said treasurer, adopt the following

Articles of Association.

Article 1. We, the undersigned, whose names are hereto subscribed, do hereby organize, form and become a corporation and body politic, under and in pursuance of an act of the legislature of the State of California, entitled "An act to provide for the incorporation of railroad companies, and the management of the affairs thereof, and other matters relating thereto," approved May 20, A. D. 1861, and the several acts supplementary to and amendatory thereof, for the purpose of constructing, owning, and maintaining a railroad from some point on the bay of San Francisco in the State of California, and to pass through the counties of Santa Clara, Monterey, San Luis Obispo, Tulare, Los Angeles, and San Diego to the town of San Diego in said State, thence eastward through the said county of San Diego in said State, thence eastward through the said county of San Diego to the eastern line of the State of California, there to connect with a contemplated railroad from said eastern line of the State of California to the Mississippi river.

Article 2. The name of the corporation hereby formed and organized shall be "Southern Pacific Railroad Company," and the same shall continue in existence for the term of fifty years from the date hereof.

Article 3. The length of said proposed railroad, as near as may be, is seven hundred and twenty miles.

Article 4. The capital stock of said corporation shall be and is hereby fixed at thirty millions dollars, being the actual contemplated cost of constructing said railroad, to-

gether with the cost of the right of way, motive power, and every other appurtenance and thing necessary for the completion and running of said road, as near as can be estimated by competent engineers, and shall consist of and be divided into three hundred thousand shares of one hundred dollars each.

Article 5. The number of directors to manage the affairs of said corporation shall be seven, and the names of the persons chosen to act as such directors, and to hold their offices until others are duly elected, are T. G. Phelps, Chas. N. Fox, Benjamin Flint, C. I. Hutchison, B. G. Lathrop, J. B. Cox, and B. W. Hathaway, all of whom are subscribers to these articles of association.

In testimony whereof we have hereunto severally subscribed our names, places of residence, and the number of said shares of stock held by each, this twenty-ninth day of November, 1865.

Names.	Residence.	No. of Shares.
T. G. Phelps	San Francisco	(720) Seven hundred & twenty
Chas. N. Fox	San Mateo	(720) Seven hundred & twenty
Benjamin Flint	San Juan	(720) Seven hundred & twenty
C. I. Hutchinson	San Francisco	(720) Seven hundred & twenty
B. G. Lathrop	San Mateo	(720) Seven hundred & twenty
W. S. Rosecrans (by J. B. Cox, his att'y in fact)	Cincinnati, O.,	(720) Seven hundred & twenty
J. B. Cox	San Francisco	(720) Seven hundred & twenty
B. W. Hathaway	San Francisco	(720) Seven hundred & twenty
John F. Sears	San Francisco	(720) Seven hundred & twenty
Wm. T. Coleman	San Francisco	(720) Seven hundred & twenty
I. W. Stephenson	San Francisco	(720) Seven hundred & twenty

State of California,
City and County of San Francisco. } ss.

T. G. Phelps, Benjamin Flint, and B. W. Hathaway being duly sworn, do depose and say that they are, and each of them is, a director of the "Southern Pacific Railroad Company"; that at least one thousand dollars for each and every mile of the railroad proposed and mentioned in the foregoing articles of association, to wit, seven hundred and twenty thousand dollars, has actually and in good faith been subscribed to the capital stock of said company by the persons whose names appear subscribed to said articles of association, and that ten per cent on said amount so subscribed has actually and in good faith been paid to B. W. Hathaway, the treasurer named and appointed by said subscribers from among their number, and that the said subscribers are known to these deponents, and to each of them, to be subscribers to said articles of association, and to be the persons so represented.

T. G. PHELPS.
BENJAMIN FLINT.
B. W. HATHAWAY.

[Seal. 5 cent Int.
Rev. Stamp Canceled.]

Subscribed and sworn to before me this 29th day of November, 1865.

GEO. C. WALLER,
Not. Pub.

[Endorsed]: Southern Pacific Railroad Company. Articles of Association. Filed in office of Secretary of State, Dec. 2nd, 1865. Fees $5.00, paid.

In the United States Circuit Court, Southern District of California.

I, Chas. L. Batcheller, master and examiner in chancery of the United States Circuit Court, Southern District of California, do hereby certify that the foregoing five pages are a full, true and correct copy, being Master's Exhibit No. 195 in the case of the United States, Complainant, vs. the Southern Pacific Railroad Company, defendant, No. 68, offered and filed in evidence before me on the 12th day of April, A. D. 1890, and that I have carefully compared the same with the original.

Dated this 12th day of April, A. D. 1890.

CHAS. L. BATCHELLER,
Master and Examiner in Chancery of said Court.

[Endorsed]: 26. Southern Pacific R. R. Co. Articles of Incorporation. Nov. 29, 1865. Certified copy. Filed December 2nd, 1865. Ex. No. 12. L. S. Defendants' Exhibit 2. Introduced in evidence August 14, '84. C. S. M.

U. S. Circuit Court, Southern District of California. United States vs. S. P. R. R. Co. No. 68, Master's Exhibit 195. Filed April 12, 1890. Chas. L. Batcheller, master and examiner in chancery. Plaintiffs' Exhibit No. 2. E. H. Lamme, examiner. Filed June 12, 1890. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, Southern District of California. U. S. vs. S. P. R. R. Co. et al. No. 600. Plaintiffs' Exhibit No. 6. Leo Longley, Special Examiner. Filed Nov. 20, 1895. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, LEWIS H. BIXBY, H. J. PARKS, CLARA E. CUMBERLAND, THOMAS S. OLDHAM, O. MORGAN, THE POMONA LAND AND WATER COMPANY, L. L. BRADBURY, H. M. CRAMPTON, CHARLES SEAVES, STODDARD JESS, ELIAS FINK, CHARLES N. PECK, S. W. MOORE, GEORGE D. RIPLEY, C. C. JOHNSON, WILLIAM S. HENDERSON, FRANK JOHNSON, GEORGE RHORES, CASSIE L. FOSS, and JOSEPH HINKELL, Defendants.

Nos. 67, 68, and 69, Consolidated by Order of Court.

Deposition of J. L. Willcutt.

Wednesday, December 18, 1889.

Before CHARLES L. BATCHELOR, Master in Chancery.

J. L. WILLCUTT, first being duly sworn on behalf of the plaintiff, deposes and says:

Mr. CALL.—Q. What is your occupation and residence?

A. Secretary of the Southern Pacific Railroad Company. Residence, Oakland.

Q. Have you been secretary of the Southern Pacific Railroad Company since the 12th day of August, 1873?

A. Yes, sir, I have.

Q. Will you state if you were secretary of any of the companies that have been amalgamated with the Southern Pacific Railroad Company, any of the companies named in the amalgamation of August 12th, 1873—the Southern Pacific Branch Railroad Company?

A. Yes, I was.

Q. The California Southern Railroad Company?

A. Yes, sir, I was secretary of that corporation.

Mr. REDDING.—The respondent, the Southern Pacific Railroad Company, waives the evidence deduced from the anwer of Mr. Willcutt on the ground that the information is secondary, and will concede that he is stating facts from the record as if the record itself spoke.

Mr. CALL.—Q. Can you tell us what was the capital stock authorized of the Southern Pacific Branch Railroad Company on the 12th day of August, 1873?

A. The capital stock I find to be twenty million dollars.

Q. Will you state what was the capital stock of the Southern Pacific Railroad Company prior to that amalgamation in August, 1873?

A. Seventy million of dollars.

Q. State what was the capital stock of the Southern Pacific Railroad Company as amalgamated with the Southern Pacific Branch Railroad Company by the articles of August 12, 1873.

A. Ninety million dollars.

Q. It is stated in article 6 of the articles entitled "Articles of Amalgamation and Consolidation," which is introduced in this case and marked "Stipulated Exhibit B," as follows: "And the said several parties of the first and second parts each for itself hereby sells, assigns, transfers, grants, bargains, releases, and conveys to the said new and consolidated company and corporation, its successors and assigns forever, all its property, real, personal, and mixed, of every kind and description, all its capital stock, all its interest in the shares of its capital stock, subscribed but not fully paid for, all credits, effects, judgments, decrees, contracts, agreements, claims, dues, and demands of every kind and description, and all releases, privileges, franchises, corporate and otherwise, held, owned, claimed by said parties of the first part and second part, or either of them in possession or expectancy, either at law or in equity." Will you please state whether in carrying out this consolidation and amalgamation, any other or different assignment or deeds or transfers were made by either of the old companies to the new consolidated company which is there stated?

A. Not to my knowledge.

Q. Upon these articles referred to being executed, published, and filed, how did you proceed to carry on the business of the company, with respect to the property of

the Southern Pacific Branch Railroad Company and the Southern Pacific Railroad Company, as it existed prior to August 12th, 1873?

A. Exactly as though it had always been the property of the Southern Pacific Railroad Company proper. It carried on the business of both companies under the one name.

Q. Did the Southern Pacific Branch Railroad Company as such carry on any railroad business or otherwise as an independent corporation after the consolidation of 1873, referred to? A. No, sir.

Q. Did the Southern Pacific Railroad Company, the party of the first part, to the agreement of August 12, 1873, referred to, being a corporation with a capital of seventy million dollars, carry on any railroad business or otherwise as such?

A. The business carried on continued in the name of the Southern Pacific Railroad Company. The amount of the capital stock not figuring in any of its transactions, conveyances, or otherwise. Everything was done in the name of the Southern Pacific Railroad Company.

Q. Did any company by the name of the Southern Pacific Railroad Company, having a capital of not more than seventy million dollars, do any railroad business or construct any railroad after the 12th day of August, 1873?

A. No, sir. The corporations consolidated, after the date of the consolidation or practically did so they are not carrying on any business, it all being done under the name of the Southern Pacific Railroad Company.

Q. The companies or corporations which were parties to the contract entitled "Articles of association, amalgamation, and consolidation of October 12, 1870," which are referred to in the evidence before the master as "Stipulated Exhibit A," were treated in the same way as being practically dead, were they not? How were they treated?

A. As though they did not any longer exist with the exception of the Southern Pacific Railroad.

Q. Now, will you please state, in conducting the affairs of the amalgamated company of October 12, 1870, whether or not you carried on the keeping of the books, and all other matters as a single company, and assumed that the property of the various companies were merged into one?

A. They were. The property of the different companies were transferred to a new set of books.

Cross-Examination.

Mr. REDDING.—Q. I understand that on the 11th day of October, 1870, the Southern Pacific Branch Railroad Company, the San Francisco and San Jose Railroad Company, the Santa Clara and Pajaro Valley Railroad Company, with the California Southern Railroad Company, were consolidated and amalgamated under the name of the Southern Pacific Railroad Company?

A. That is correct.

Q. Now, there was existing prior to the 11th day of October, 1870, the corporation known as the Southern Pacific Railroad Company? A. Yes, sir.

Q. And subsequently to the 11th day of October, 1870, there was existing a corporation known as the Southern Pacific Railroad Company? A. Yes, sir.

Q. That received, and had in it, everything pertaining to the companies I have enumerated? A. Correct.

Q. To refresh your mind with reference to the date of several acts of Congress, you remember that on the 27th day of July, 1866, Congress passed an act entitled "An act granting land to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast." That act of Congress contains what is known as the grant to the Southern Pacific Railroad of 1866. Have you made any reports to the interior department, or to the President of the United States, or to any person in authority with reference to the Southern Pacific Railroad Company, and that act of Congress, and the terms of that act of Congress. In other words, have any reports gone forth from this office to Washington?

(Objected to as incompetent, immaterial, and not best evidence.)

A. I think various reports have gone forward. I shall have to refer to the files to answer you.

Q. There have been reports?

(Same objections.)

A. Yes, sir.

Q. Is there not what is known as the annual report which goes forth stating the condition of affairs of the company called for by this act of Congress?

(Same objection.)

A. For some years there was an annual report sent forward.

(Same objection.)

Q. That was sent forward by the Southern Pacific Railroad Company?

(Same objection.)

A. Yes, sir.

Q. Now, on the 12th of August, 1873, the Southern Pacific Railroad Company, which is the Southern Pacific Railroad Company that received that land grant, and the Southern Pacific Branch Railroad Company amalgamated and consolidated. Do you know whether or not reports went to Congress, or to Washington, or to any person in authority after 1873, from this office with reference to the act of Congress of July 27, 1866, and also with reference to the act of Congress of March 3, 1871, which is known as the Southern Pacific Branch Line Act from Tehachapi by way of Los Angeles, to Fort Yuma?

(Same objection.)

A. They were.

Q. For what years, and to whom were they sent?

(Same objection.)

A. From 1870 to June, 1877, to the secretary of the interior.

Q. Were they received by him?

(Same objection.)

A. They were sent on regularly to be filed.

Mr. CALL.—I have no objection to the witness stating that they were received.

A. They were received at Washington.

Mr. REDDING.—Q. What was the nature of these reports, and for what purpose were they sent?

(Same objection.)

A. It was the annual report of the company to the secretary of the interior as required by certain acts of Congress. They were all sworn statements.

Q. Have you been in constant communication with Washington, and with the various authorities annually with reference to the affairs of the Southern Pacific Railroad Company since the date of these acts of Congress that I have mentioned?

(Same objection.)

A. I have.

Q. Please continue and state further to whom those reports were made and what the nature of them was.

(Same objection.)

A. I answered—to June 30, 1877, to the secretary of the interior. To 1879, to the United States auditor of railroad accounts. Subsequently to that date, to the commissioner of railroads, department of the interior.

Q. Have there been annual reports made?

A. There have been annual reports made.

Q. And accepted?

(Same objection.)

A. And accepted.

(Same objection).

Q. Have those reports been made by the Southern Pacific Railroad Company?

(Same objection).

A. They have.

Q. Why is it since 1878 you have made the annual reports to the commissioner of railroads?

(Objected to by plaintiff as incompetent, irrelevant, immaterial, and not cross-examination.)

A. Under the act of Congress, approved June 19, 1878, entitled "An act to create an auditor of railroad accounts, and for other purposes."

Q. Section 4 of that act reads: "That each and every railroad company aforesaid which has received from the United States any bonds of the said United States, issued by way of loans, to aid in constructing or furnishing its road, or which has received from the United States any lands granted to it for similar purposes, shall make to the said auditor any and all such reports as he may require from time to time, and shall submit its books and records to the inspection of said auditor, or any person acting in his place or stead, at any time that said auditor may request, in the office where said books and records are usually kept, and that said auditor or his authorized representative shall make such transcript from the said books and records as he may desire." Have the books of the Southern Pacific Railroad Company since July 27, 1866, down to the present time, been open in all respects for the inspection of officers or proper authorities of the United States?

(Same objection by the plaintiff as above stated.)

A. They have.

Q. Has there from time to time been any inspection made of the books of the Southern Pacific Railroad Company since July 27, 1866?

(Same objection by the plaintiff as above stated.)

A. There has not.

Q. But there have been these statements sent on from this office to them?

(Same objection by the plaintiff as above stated.)

A. Yes, sir, regularly.

It is admitted that the testimony taken above has the same force and effect as if the witness was duly sworn by the master in chancery himself, and all objections to the manner of taking it are hereby waived, and the signature to deposition is also waived.

JOSEPH H. CALL,
Solicitor and Counsel for Plaintiff.

JOSEPH D. REDDING,
Solicitor for Respondent, S. P. R. R. Co.

ANDERSON, FITZGERALD & ANDERSON,
Solicitors for Defendants for whom we have appeared.

EDWIN BAXTER,
Solicitor for Defendants for whom I have appeared.

WILL D. GOULD and JAMES H. BLANCHARD,
Attorneys for Joseph Hinckell.

JOHN D. BICKNELL,
Solicitor for L. L. Bradbury.

[Endorsed]: No. 68. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America vs. S. P. R. R. Co. et al. Deposition of J. L. Willcutt. Joseph D. Redding, Solicitor for Respondent, S. P. R. R. Co. No. 8 Montgomery street, San Francisco, Cal.

In the Circuit Court of the United States, Southern District of California.

UNITED STATES OF AMERICA, Plaintiffs,		Consolidated Nos. 67, 68, and 69.
vs.		
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.		

Stipulation.

It is hereby stipulated and agreed by and between the respective parties to the above-entitled cause that the depositions and testimony of J. L. Wilcutt and Jerome Madden, and other witnesses in said cause, be taken before Charles T. Stanley, a notary public, at his office, No. 512 Montgomery street, San Francisco, or at such place as it may be adjourned to, on the 13th day of February, 1890, at 10 o'clock A. M., and continuing from time to time thereafter until completed; that the testimony may be written down in short-hand by a short-hand reporter, and thereafter written out in typewriting, and after being so written out in typewriting may be read to and corrected by the witnesses, and that said depositions and testimony, when taken, be read and used in evidence in said cause, with the same effect as if taken by an ex-

aminer pursuant to the laws of Congress and rules in equity of the Supreme Court, but without objection or exception to the time, place, or manner of taking the same, and the form of the question, unless noted at the time.

Dated San Francisco, the 13th day of February, 1890.

JOSEPH H. CALL,
Solicitor for Plaintiff.

JOSEPH D. REDDING,
Solicitor for Defendant, Southern Pacific Railroad Company.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY et al., Respondents. } Nos. 67, 68, and 69. Consolidated by Order of Court.

Deposition of J. L. Willcutt.

Deposition of J. L. Willcutt, a witness called on behalf of the complainant, taken before Charles T. Stanley, Esq., a notary public in and for the city and county of San

Francisco, State of California, on Thursday, February 13, 1890, pursuant to the annexed stipulation, and by consent of the parties.

Counsel Appearing:

Joseph H. Call, Esq., solicitor for the complainant.
Joseph D. Redding, Esq., solicitor for the respondent, The Southern Pacific Railroad Company.

Stephen Potter, Short-hand Reporter, 325 Montgomery street, Room 9, Telephone 1117.

It is stipulated between the parties that the testimony taken before the notary public shall have the same force and effect as if taken before an examiner in chancery.

J. L. WILLCUTT, produced as a witness on behalf of the complainant, being first duly sworn and cautioned, deposes and testifies as follows:

Direct Examination.

By Mr. CALL.—Q. Please state your present occupation.

A. Secretary of the Southern Pacific Railroad Company and other railroad corporations.

Q. State whether or not, prior to October, 1870, you were secretary of the San Francisco and San Jose Railroad Company. A. I was.

Q. Were you also prior to that time secretary of the Santa Clara and Pajaro Valley Railroad Company?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

A. I was.

Q. Were you also, prior to that time, secretary of the California Southern Railroad Company?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

A. I was.

Q. Were you also, prior to that time, secretary of the Southern Pacific Railroad Company?

A. I was not.

Q. Have you been secretary of the Southern Pacific Railroad Company since the 12th day of August, 1873?

A. I have.

Q. Have you copies of the articles of incorporation of these railroad companies which we have mentioned which you can refer to?

A. I have all of them filed in my office.

Q. Will you be so good as to send and get them, if they are convenient, so that we can refer to them?

(Witness sends for the papers referred to.)

Q. Were you secretary of the Southern Pacific Branch Railroad Company prior to August 12th, 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as irrelevant, immaterial, and incompetent.)

A. Yes, sir.

Q. Will you state what your general duties were with respect to your position as secretary of the several railroad companies that I have mentioned?

A. I had general charge of the accounts of the company, attended all meetings of the directors, and kept a record of the proceedings of the various meetings, and fulfilled the general duties of a secretary otherwise.

Q. It has been shown in evidence in this case by other testimony that a line of railroad from Tehachapi Pass, via Los Angeles, to the Colorado river at or near Yuma was constructed and is in operation; are you familiar with that line of road—have you been over it?

A. Only partially.

Q. Do you know that part of it north of Los Angeles?

A. Yes, sir.

Q. What is the name of the railroad company that constructed that road?

A. The Southern Pacific Railroad Company.

Q. The company that you have been secretary of since August 12th, 1873, before mentioned?

A. Yes, sir.

(Question objected to by the respondent, the Southern Pacific Railroad Company, as leading, and not proper direct examination, and said respondent moves to strike out the answer.)

(Witness produces the papers heretofore sent for.)

Q. What was the capital stock of the Southern Pacific Railroad Company which constructed that road from Tehachapi Pass to Los Angeles in the month of October, 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as ambiguous, unintelligible, and uncertain, and also as irrelevant, immaterial, and incompetent.)

A. Ninety million dollars.

Q. In October, 1873, how long a time had that company yet to endure under its articles?

(Question objected to by the respondent, the Southern Pacific Railroad Company, on the same grounds as last stated.)

A. Forty-two years; the articles of incorporation are dated November 29th, 1865.

Q. You are reading from those?

A. I have the articles of incorporation before me, dated November 29th, 1865.

Q. You read that from the articles of incorporation of 1865?

A. I take that from the articles of incorporation of 1865.

Q. How long a time had it to endure by the articles of August 12th, 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as ambiguous, uncertain, and unintelligible, and upon the further ground that it has not been stated that there were any articles of incorporation of that date last mentioned, nor has it been so shown.)

Q. I will ask the witness first if you have or can produce a copy of the articles of incorporation of August 12th, 1873, being the articles of amalgamation of the Southern Pacific Railroad Company and the Southern Pacific Branch Railroad Company.

A. Articles of amalgamation and consolidation I can produce; I have them here.

Q. In order that you may understand this question, it has been shown in evidence that the line of road from Tehachapi Pass by way of Los Angeles to the Colorado river was constructed by a corporation by the name of the Southern Pacific Railroad Company between the years 1873 and 1878.

Mr. REDDING.—I would like to state that I think it has also been shown that that road was being constructed from 1871 until 1878, not from 1873. A map of the different locations was filed April 3d, 1871, is not that so?

Mr. CALL.—I believe a map designating the route was filed on April 3d, 1871.

Q. Please state what length of time the Southern Pacific Railroad Company, which constructed that road, had to endure under its articles from and after October, 1873, as shown by the articles.

(Question objected to by the respondent, the Southern Pacific Railroad Company, as immaterial and irrelevant, and also on the ground that the witness has answered the question.)

A. I am unable to answer it from the papers before me; I have only the time given in the articles of 1865, but nothing further.

Q. Have you the articles of 1873?

A. The articles of 1873 are the articles of association, amalgamation, and consolidation.

(Question objected to by the respondent, the Southern Pacific Railroad Company, as incompetent, and also that the articles, if there are any, speak for themselves and are the best evidence.)

Q. Refer to article 1st of the articles of association of 1873?

A. The articles of association, amalgamation, and consolidation of the 12th of August, 1873, provide for the existence of that corporation for the period of fifty years from the date of the articles.

Q. Will you attach a copy of those articles to your deposition? A. Yes, sir.

Q. Will you please do so at your convenience?

A. Yes, sir.

(Objection by the respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

Q. Can you produce a copy of the articles of incorporation of the Southern Pacific Branch Railroad Company?

A. Yes, sir.

Q. Have you a copy there? A. I have.

Q. Referring to those articles, please state what was the capital stock of that company?

A. Twenty million dollars.

Q. Will you please attach a copy of those articles to your deposition? A. Yes, sir.

(Objection by the respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

Q. Can you produce a copy of the articles of incorporation and association of the Southern Pacific Railroad Company which were entered into October 11th, 1870?

A. Yes, sir.

Q. You will please do so and make them a part of your deposition.

(Objection by the respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

Q. Please state whether or not a corporation by the name of the Southern Pacific Railroad Company, having a capital stock of seventy million dollars, and no more than that and no less, constructed any railroad between Tehachapi Pass and Los Angeles after the year 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent, and as asking the opinion of the witness.)

A. I have known but one corporation, the Southern Pacific Railroad Company, without regard to the capital stock; it has not figured at all upon my books; I have continued the business along with one corporation.

Q. What was the capital stock of that corporation in October, 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, upon the same grounds as last stated.)

A. The capital stock of the articles of consolidation of August, 1873, was ninety million dollars.

Q. What was the capital stock in the year 1874, of that company?

(Question objected to by the respondent, the Southern Pacific Railroad Company, upon the same grounds as last stated.)

A. The same amount.

Q. Can you now state, having refreshed your memory, whether a corporation by the name of the Southern Pacific Railroad Company, with a capital stock of seventy million dollars, constructed any railroad or did any railroad business after October, 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, as irrelevant, immaterial, and incompetent, and as asking for the opinion of the witness upon a legal conclusion.)

A. I think I have answered the question that as far as my accounts show and the records as taken from my books I have never distinguished between the amount of one capital stock and another; our accounts have been kept along in a continuous set of books, and it has been the Southern Pacific Railroad Company without regard to capital stock.

Q. Was it part of your duty as secretary to sign the certificates of stock, and would it be necessary for you to know the amount of the capital stock that would be authorized to be issued? A. Yes, sir.

Q. Can you not then state whether there was a company by the name of the Southern Pacific Railroad Company with a capital stock of seventy million dollars and no more—whether such a company did business after October, 1873?

(Question objected to by the respondent, the Southern Pacific Railroad Company, on the same grounds as last stated, and also that the witness has answered the question.)

A. I have never drawn the lines of the business of the company upon the representation of the capital stock; the capital stock account has shown the capital standing at different times, but does not appear upon separate books, to have been reduced or increased in accordance with the consolidations which have been made, but the accounts have continued in one set of books, so that in doing any business I have never drawn any line as to whether it was a seventy million dollars capital or ninety million dollars capital, company that was doing the business; the business was continued along in the name of the Southern Pacific Railroad Company.

Q. Only one set of books?

A. One set of books being used, since the consolidation of 1870, when I found the old books were insufficient to carry on the business of the company as consolidated; I then got a new set of books; since that I have continued the accounts along in those books without regard to the capital stock or any difference in the corporation.

Q. At the time that the articles of association of August 12th, 1873, were entered into, it was provided in those articles by article 5th as follows: "Each stockholder of said parties shall have the same number of shares of the capital stock of the new corporation which he now owns and holds of the capital stock of his respective company, upon the same terms and conditions, and shall be entitled to receive from said new corporation certificates therefor, where the same has been fully paid up, upon the surrender of the certificates now held by him; and where the same has not been fully paid up he

shall receive such other evidence of his ownership as the board of directors of said new corporation shall direct upon the surrender of such evidence of his ownership of such unpaid stock as he may now hold"; you will please state whether the stockholders of the Southern Pacific Branch Railroad Company, or any of them, or all of them, surrendered their certificates and received new certificates.

(Question objected to by respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant and incompetent.)

A. They did.

Q. Did the stockholders of the old Southern Pacific Railroad Company receive new certificates, or did they retain them?

(Question objected to by respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

A. They did not receive new ones.

Q. Did the stockholders who owned stock which was fully paid up and subscribed receive any other or different evidence of their holdings than what they originally held?

A. No change was made in the Southern Pacific.

Q. They simply retained those same certificates?

A. The same certificates.

Q. And an additional twenty million dollars was issued to the holders of the stock of the Southern Pacific Branch Railroad Company?

A. If that amount had been fully paid they received stock to the extent which they had paid, whatever it may have been; their certificates of stock or evidence of indebtedness were surrendered, and the certificates of stock or the evidence of ownership of the Southern Pacific Railroad Company were delivered to them and received by them in exchange for it.

Q. In the articles of association, amalgamation, and consolidation dated August 12, 1873, between the Southern Pacific Railroad Company of the first part and the Southern Pacific Branch Railroad Company of the second part, it is stated in the articles that "the said party of the second part was heretofore, to wit, on the 23d day of December, A. D. 1872, duly incorporated and organized under the laws of the State of California, for the purpose of purchasing, constructing, owning, maintaining, and operating a railroad from a point on the Southern Pacific Railroad (the railroad of the party of the first part at or near Salinas City, in the county of Monterey, southeasterly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin Valley Division of the said Southern Pacific Railroad; also from a point on the above-described line at or near San Miguel, in San Luis Obispo county; thence in a southerly direction to a point of intersection in Los Angeles county with a line of the Southern Pacific Railroad running from Tehachapi Pass by way of Los Angeles to Fort Yuma, said road passing into or through the counties of Monterey, San Luis Obispo, Kern, Santa Barbara, and Los Angeles, and said roads in the aggregate being as near as may be four hun-

dred and twenty-eight miles in length"; can you state whether the Southern Pacific Railroad Company as consolidated by these articles of 1873, the new company, went on and constructed any part of the railroads that it is here provided that the Southern Pacific Branch Railroad Company might construct?

(Question objected to by respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and incompetent.)

A. The Southern Pacific Railroad Company has constructed a road along the line mentioned to San Miguel Station; the road has been constructed from Salinas to San Miguel.

Q. Running through what counties?

A. I answer, without knowing the counties, that the line has been constructed from Salinas City to San Miguel.

Q. That line you say was constructed by the Southern Pacific Railroad Company?

A. Constructed by the Southern Pacific Railroad Company.

Q. Do you know the year that that was constructed in?

A. I would have to refer to my books to give the different dates.

Q. About the year, about the time?

A. 1888 or 1889, I should say.

Mr. REDDING.—Q. 1888?

A. 1889.

Mr. CALL.—Q. Was that road constructed in pursuance of these articles and the authority here set forth?

(Question objected to by respondent, the Southern Pacific Railroad Company, as incompetent, immaterial, and irrelevant, and as leading, and as calling for the opinion of the witness in reference to matters to be proven from the records, if at all.)

A. I assume it to have been.

Q. I believe you stated that you had been secretary of the Southern Pacific Railroad Company since August, 1873? A. Yes, sir.

Q. Keeping one set of books for the different roads that have been amalgamated with the Southern Pacific and carrying on the business as one corporation?

A. Continuously.

Q. Can you state whether or not the Southern Pacific Branch Railroad Company, as such, constructed any railroad after the articles were entered into of August 12, 1873? A. It did not.

Q. Did the San Francisco and San Jose Railroad Company, that was consolidated with the Southern Pacific Railroad Company October 11, 1870, construct any railroad after the 11th day of October, 1870?

(Question objected to by respondent, the Southern Pacific Railroad Company, as immaterial, irrelevant, and calling for an incompetent answer and the opinion of the witness.)

A. It did not.

Q. Did the Santa Clara and Pajaro Valley Railroad Company, or the California Southern Railroad Company, construct any railroad after that date?

(Question objected to by respondent, the Southern Pacific Railroad Company, on the same grounds as last stated.)

A. No, sir.

Q. But after the articles of consolidation of October 11, 1870, and of August 12, 1873, I understand that the business was all done under the name of the Southern Pacific Railroad Company as one corporation acting under the new articles?

(Question objected to by respondent, the Southern Pacific Railroad Company, as leading and suggestive, and as incompetent, irrelevant, and immaterial.)

A. Correct; it was all done under the name of the Southern Pacific Railroad Company.

Q. I suppose it acted by authority of the articles of incorporation and association entered into from time to time as it was done, was it not?

(Question objected to by respondent, the Southern Pacific Railroad Company, as leading and suggesting the answer and calling for the opinion of the witness, and as incompetent, irrelevant and immaterial.)

A. My answer heretofore has been that it was done in the name of the Southern Pacific Railroad Company, without regard to its capital stock or any reorganization, it may be said, or consolidation, that I know of.

Q. But you carried on the business as one company and only one corporation?

A. As the Southern Pacific Railroad Company, and only one corporation that I know of.

Cross-Examination.

By Mr. REDDING.—Q. What was the name of the corporation that existed prior to the 11th day of October, 1870, and with which you were connected—was it known as the Southern Pacific Railroad Company?

A. I was not connected with the Southern Pacific Railroad Company prior to October 11th, 1870, but with three corporations that were consolidated with that company, namely, the San Francisco and San Jose Railroad Company, the Santa Clara and Pajaro Valley Railroad Company, and the California Southern Railroad Company.

Q. They were consolidated on that day, were they?

A. The 11th of October, 1870.

Q. Did you become secretary of the Southern Pacific Railroad Company then, or how soon thereafter?

A. Immediately on the organization; immediately after the filing of the articles of consolidation in the office of the secretary of State.

Q. Was there existing a corporation known as the Southern Pacific Railroad Company subsequent to the 11th day of October, 1870?

A. Yes, sir.

Q. To refresh your mind with reference to the date of the several acts of Congress, you will remember that on the 27th day of July, 1866, Congress passed an act entitled "An act granting land to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," that act of Con-

gress contains what is known as the grant to the Southern Pacific Railroad Company of 1866; have you made any reports to the interior department, or to the President of the United States, or to any person in authority, with reference to the Southern Pacific Railroad Company and that act of Congress and the terms of that act of Congress? In other words, have any reports gone forth from this office, or from your office, to Washington?

(Question objected to by complainant as incompetent, immaterial, and irrelevant and not the best evidence.)

A. Annual reports have been made every year.

Q. What was the name of the company that sent those annual reports?

(Question objected to by complainant on the same grounds as last stated.)

A. The Southern Pacific Railroad Company.

Q. Is that the Southern Pacific Railroad Company of which you were secretary?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Have you continued to be secretary ever since and down to the present day?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. And you now are secretary of that company?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. On the 12th day of August, 1873, the Southern Pacific Railroad Company, which is the Southern Pacific Railroad Company which received that land grant, and the Southern Pacific Branch Railroad Company, amalgamated and consolidated; do you know whether or not reports went to Congress, or to Washington, or to any person in authority, after 1873, from your office with reference to the act of Congress of July 27, 1866, and also with reference to the act of Congress of March 3, 1871, which is known as the Southern Pacific Branch Line Act Grant from Tehachapi, by way of Los Angeles, to Fort Yuma? Do you know whether any reports have gone forth from your office to Washington, or any other place, with reference to those?

(Question objected to by complainant on the same grounds as last stated.)

A. A report has been sent forward every year.

Q. Do you know to whom they were sent?

(Question objected to by complainant on the same grounds as last stated.)

A. From 1870 to June, 1877, to the secretary of the interior.

Q. Were they received by him?

(Question objected to by complainant on the same grounds as last stated.)

A. They were; they were sent on regularly to be filed.

Mr. CALL.—I have no objection to the witness stating that they were received.

A. They were received at Washington.

Mr. CALL.—I object to the evidence for the reasons above stated.

Mr. REDDING.—Q. What was the nature of the reports, and for what purpose were they sent?

(Question objected to by complainant on the same grounds as last stated.)

A. The annual report of the company to the secretary of the interior as required by certain acts of Congress; they were all sworn statements.

Q. Have you been in constant communication with Washington, and with the various authorities annually, with reference to the affairs of the Southern Pacific Railroad Company since the date of these acts of Congress that I have mentioned?

(Question objected to by complainant on the same grounds as last stated.)

A. I have.

Q. Please continue and state further to whom those reports were made and what the nature of them was.

(Question objected to by complainant on the same grounds as last stated.)

A. I answered to June 30, 1877, they were sent to the secretary of the interior; to 1879 they were sent to the United States auditor of railroad accounts; subsequently to that date to the commissioner of railroads, department of the interior.

Q. Have there been annual reports made?

(Question objected to by complainant on the same grounds as last stated.)

A. There have been.

Q. And accepted?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Have those reports been made by the Southern Pacific Railroad Company?

(Question objected to by complainant on the same grounds as last stated.)

A. They have.

Q. Are you the custodian of the affairs and books and correspondence of the corporation the Southern Pacific Railroad Company?

A. I am, with the exception of the land department.

Q. I refer to the executive department; are you now testifying from your investigations of the files of your office? A. Yes, sir.

Q. And from your examination of the records?

A. Yes, sir.

Q. And correspondence? A. Yes, sir.

Q. Have those reports been made by the Southern Pacific Railroad Company?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Why is it since 1878 you have made the annual reports to the commissioner of railroads?

(Question objected to by complainant on the same grounds as last stated.)

A. Under the act of Congress, approved June 19, 1878, entitled "An act to create an auditor of railroad accounts, and for other purposes."

Q. Section IV of that act reads: "That each and every railroad company aforesaid, which has received from the

United States any bonds of the said United States, issued by way of loans, to aid in constructing or furnishing its road, or which has received from the United States any lands granted to it for similar purposes, shall make to the said auditor any and all such reports as he may require from time to time, and shall submit its books and records to the inspection of said auditor, or any person acting in his place or stead, at any time that said auditor may request, in the office where said books and records are usually kept, and the said auditor, or his authorized representative, shall make such transcript from the said books and records as he may desire"; have the books of the Southern Pacific Railroad Company since July 27, 1866, down to the present time, been open in all respects for the inspection of officers or proper authorities of the United States?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Has there from time to time been any inspection made of the books of the Southern Pacific Railroad Company since July 27, 1866?

(Question objected to by complainant on the same grounds as last stated.)

A. No, sir.

Q. But there have been these statements sent on from this office regularly?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Have you had papers served upon you as secretary of the Southern Pacific Railroad Company in suits brought against it by individuals, and companies, and corporations?

A. Yes, sir.

Q. I mean acting as secretary for the respondent, the Southern Pacific Railroad Company in this suit, you are the secretary of the respondent in this suit, entitled case No. 68, now pending in the Circuit Court of the United States, Ninth Circuit, Southern District of California?

A. Yes, sir.

Q. Were you ever served with any papers in the tax suits brought by the State of California against this respondent?

(Question objected to by complainant as incompetent, immaterial, and irrelevant.)

A. Yes, sir.

Q. I now refer you to volume 127 of the United States Supreme Court Reports, October Term, 1887, on the first page thereof, and from that page on several pages you will see a decision or decisions in the following entitled cases: California vs. The Central Pacific Railroad Company, California vs. The Southern Pacific Railroad Company, and other cases; do you know whether or not the corporation The Southern Pacific Railroad Company therein sued is the same corporation in fact as is sued in this case?

(Question objected to by complainant as incompetent, immaterial, and irrelevant.)

A. It is.

Q. Were you secretary of this corporation at the time it was sued in that suit?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Has there been any change of any nature made in the books of your office, or by resolution of the board of directors, or by meeting of the stockholders, as to the affairs of the Southern Pacific Railroad Company between 1885 and the present date?

(Question objected to by complainant on the same grounds as last stated.)

A. No, sir.

Q. If there had been would you know of it, and would the same have been entered on your books?

(Question objected to by complainant on the same grounds as last stated.)

A. Yes, sir.

Q. Did you go over the road of the Southern Pacific Railroad Company in the course of its construction between Tehachapi and Los Angeles, or between Tehachapi and Fort Yuma, or any portions of it? I refer now to the branch line.

A. I passed over the road to Los Angeles and some points beyond there several times.

Q. Did any vouchers or bills for expenditure or any of the amounts disbursed come under your supervision, control or inspection in the course of its construction?

A. In connection with its construction?

Q. Yes, or in connection with the expenses of the construction? A. The bills for construction did.

Q. Have the bills for the maintenance since its construction come under your inspection or control since that time?

A. Up to the time of its being leased to the Central Pacific Railroad Company and the Southern Pacific Company.

Q. That is to say, up to the time that the Central Pacific Railroad Company and the Southern Pacific Company assumed the lease of its working material?

A. Yes, sir.

Q. Is the company known as the Southern Pacific Railroad Company to-day—is it as a fact the same company that constructed and maintained the construction of the road that you went over from Tehachapi by the way of Los Angeles to Fort Yuma, or along any portion of the road?

(Question objected to by complainant as immaterial, incompetent, and irrelevant, and as calling for the opinion of the witness, and a conclusion of law, and as incompetent for the reason that it has been previously shown by the proper proofs what the facts were in that respect.)

A. I have already answered that I know but one company, the Southern Pacific Railroad Company.

Q. And that is the same company that existed then, and now exists, so far as your knowledge extends?

(Question objected to by complainant on the same grounds as last stated, and the additional objection that the witness has on his direct and cross-examination fully answered the question and stated what the facts were.)

A. Yes, sir.

Corrections.—In the first answer given on page 13 witness desires to correct same and answers as follows: The Southern Pacific Railroad Company has constructed a road along the line mentioned to Santa Margarita; the road has been constructed from Salinas to Santa Margarita; also from Elwood, Santa Barbara county, to connect with the Los Angeles line at Saugus, in Los Angeles county.

In answer to question following last answer referred to on same page the witness desires to correct his answer so as to read as follows: I answer, that without remembering whether there are any intervening counties, that the line has been constructed from Salinas city, in Monterey county, to Santa Margarita in San Luis Obispo county, and from Elwood to Saugus as aforestated.

In answer to third question of the cross-examination, the witness desires to strike out the answer given therein and answer the same as follows: On the date of their consolidation—11th of October, 1870.

J. L. WILLCUTT. J. H. C.

Subscribed and sworn to before me by said J. L. Willcutt in the city and county of San Francisco, this 15th day of February, A. D. 1890.

[Seal] CHAS. T. STANLEY,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

I, Charles T. Stanley, a notary public in and for said city and county, do hereby certify that pursuant to the foregoing and annexed stipulation entered into by the parties in the case of The United States of America vs. The Southern Pacific Railroad Company and others, No. 69 on the docket of the United States Circuit Court, Southern District of California, and by the agreement of the parties and their solicitors, I did take the deposition of the within named witness, J. L. Willcutt, as follows:

By agreement of the respective solicitors for the parties, I adjourned the taking of said deposition from my office to the office of the Southern Pacific Railroad Company in this city, Mr. Joseph D. Redding, solicitor for the Southern Pacific Railroad Company, and Mr. Joseph H. Call, solicitor for the United States, being personally present, and having waived all formalities, and on the 13th day of February, 1890, at 11 o'clock A. M., the said J. L. Willcutt was produced, and was by me first duly sworn and examined, and his testimony reduced to writing in the mode provided in said stipulation; and did testify as set forth in the foregoing deposition; and after the same was reduced to writing it was carefully read over to said witness, and being by him corrected, was by him signed in my presence and sworn to before me in this city on the 15th day of February, 1890.

And I do further certify that the above-named witness resides at the city of Oakland, county of Alameda, more

than one hundred miles from the city of Los Angeles, and outside of the district of the United States Circuit Court for the Southern District of California.

And I do further certify that I am not of counsel, nor attorney for either or any party to said suit, nor interested in the event of the suit.

In witness whereof, I have hereunto set my hand and seal, this 17th day of February, A. D. 1890.

[Seal]

CHAS. T. STANLEY,
Notary Public.

State of California, Department of State.

I, H. L. Nichols, secretary of State of the State of California, do hereby certify that the annexed is a true, full and correct copy of Articles of Association, Amalgamation and Consolidation of the San Francisco and San Jose, the Santa Clara and Pajaro Valley, the Southern Pacific, and the California Southern Railroad Companies now on file in my office.

Witness my hand and the great seal of State, at office in Sacramento, California, the eighth day of December, A. D. 1870.

[Seal]

H. L. NICHOLS,
Secretary of State,
Lew B. Harris,
Deputy.

Articles of Association, Amalgamation and Consolidation,

Made and executed on this the eleventh day of October, A. D. 1870, by and between the San Francisco and San Jose Railroad Company of the first part, the Santa Clara and Pajaro Valley Railroad Company of the second part, the Southern Pacific Railroad Company of the third part, and the California Southern Railroad Company of the fourth part, witnesseth:

That whereas, the said party of the first part was, heretofore, to wit, on the eighteenth day of August, 1860, duly incorporated and organized under the laws of the State of California for the purpose of constructing, owning, maintaining, and operating a railroad from the city of San Francisco in the county of San Francisco in said State, through said county and the counties of San Mateo and Santa Clara to the city of San Jose in said last named county, a distance of forty-eight miles.

And whereas, the said party of the second part was, heretofore, to wit, on the second day of January, 1868, duly incorporated and organized under the laws of said State for the purpose of constructing, owning, maintaining, and operating a railroad from a point at or near the city of San Jose, in the county of Santa Clara and State aforesaid, connecting at said point with the railroad of the said party of the first part, and to pass thence to a point at or near the town of New Gilroy in the same county, a distance of thirty miles.

And whereas, the said party of the third part was, heretofore, to wit, on the second day of December, 1865,

duly incorporated and organized under the laws of said State for the purpose of constructing, owning, maintaining and operating a railroad from some point on the bay of San Francisco in said State and to pass through the counties of Santa Clara, Monterey, San Luis Obispo, Tulare, Kern, Los Angeles and San Diego to the town of San Diego in said State, thence eastward through the county of San Diego to the eastern boundary line of said State, a distance of seven hundred and twenty miles as near as may be, there to connect with a contemplated railroad from said eastern boundary line of said State to the Mississippi river, and has received large grants of land from the government of the United States to aid it in the construction and equipment of said road.

And whereas, the said party of the fourth part was, heretofore, to wit, on the twenty-second day of January, 1870, duly incorporated and organized under the laws of said State for the purpose of constructing, owning and maintaining a railroad from a point at or near the town of Gilroy in the county of Santa Clara in said State, and to pass through the counties of Santa Clara, Santa Cruz and Monterey to a point at or near the town of Salinas City in said last-named county, a distance of forty-five miles as near as may be.

And whereas, said parties believe a consolidation and amalgamation of their capital stocks, debts, properties, assets, roads, telegraphs, lands and franchises will be mutually advantageous.

And whereas, more than three-fourths in value of all the stockholders in interest of each of said parties have

consented in writing to such amalgamation and consolidation upon the terms and conditions hereinafter set forth:

Now, therefore, under and by virtue of the statute of the State of California, in such case made and provided, the said parties do hereby mutually covenant and agree, each with each and all the others to the following articles, to wit:

Article First.

Said parties do hereby amalgamate and consolidate themselves into a new corporation under the name and style of the Southern Pacific Railroad Company, which new corporation shall continue in existence for the period of fifty years, from the date of these articles; and they do further consolidate and amalgamate their several capital stocks, debts, properties, assets, roads, telegraphs, lands, franchises, rights, titles, privileges, claims, and demands of every kind whatsoever, as well in possession as in expectancy, at law or in equity, and do grant, convey, and vest the same in said new corporation as fully as the same are now severally held and enjoyed by them or either of them, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, incumbrances, claims, and charges thereon, or in any wise affecting the same.

Article Second.

The object and purpose of said new corporation shall be to purchase, construct, own, maintain, and operate a continuous line of railroad from the city of San Fran-

cisco in the State of California through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino, and San Diego to some point on the Colorado river in the southeastern part of the State of California, a distance of seven hundred and twenty miles as near as may be; also a line of railroad from the town of Gilroy, in the county of Santa Clara in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City, in said last-named county, a distance of forty-five miles as near as may be; also such branches to said lines as the board of directors of said new corporation may hereafter consider advantageous to said corporation and direct to be established.

Article Third.

The board of directors of said new corporation shall consist of seven persons, and the following named persons shall act as such directors until their successors shall have been duly elected pursuant to the by-laws of said new corporation hereafter to be adopted, viz: Lloyd Tevis, Leland Stanford, Charles Crocker, C. P. Huntington, Mark Hopkins, Charles Mayne, and Peter Donahue.

Article Fourth.

The capital stock of said new corporation shall be fifty million dollars, consisting of five hundred thousand shares of one hundred dollars each, that sum being the contemplated actual cost of said railroads, including telegraph lines, rolling stock, motive power, shops, depots, etc.

Article Fifth.

Each stockholder of each of said parties shall have the same number of shares of the capital stock of the new corporation which he now owns and holds of the capital stock of his respective company, upon the same terms and conditions, and shall be entitled to receive from said new corporation certificates therefor, where the same has been fully paid up, upon the surrender of the certificates now held by him, and where the same has not been fully paid up, he shall receive such other evidence of his ownership as the board of directors of said new corporation shall direct, upon the surrender of such evidence of his ownership of such unpaid stock of his respective company, as he may now hold.

Article Sixth.

Said new corporation shall assume and perform all the contracts, agreements, covenants, duties, and obligations of what kind soever, of each of said parties, and shall pay and discharge all debts, claims, and demands existing against either and all of said parties, but nothing herein contained shall release the said parties or either of them, or their stockholders, or any of them from any of their just liabilities.

In testimony whereof, the said parties have severally caused these articles to be signed and executed by affixing thereto their respective corporate names and seals, by their respective presidents and secretaries, pursuant

to the orders of their respective boards of directors heretofore made, on the day and year first above written.

SOUTHERN PACIFIC RAILROAD COMPANY,

[Southern Pacific R.R. Co. Seal.]

By LLOYD TEVIS,
President.
B. B. MINOR,
Secretary.

THE SAN FRANCISCO AND SAN JOSE RAILROAD COMPANY,

[San Francisco and San Jose R. R. Company Seal.]

By H. M. NEWHALL,
President.
J. L. WILLCUTT,
Secretary.

SANTA CLARA AND PAJARO VALLEY RAILROAD COMPANY,

[Santa Clara & Pajaro Valley R. R. Company Seal.]

By P. DONAHUE,
President.
J. L. WILLCUTT,
Secretary.

CALIFORNIA SOUTHERN RAILROAD COMPANY.

[Seal]

By CHAS. MAYNE,
President.
J. L. WILLCUTT,
Secretary.

The undersigned, being holders of more than three-fourths in value of the capital stock of the San Francisco and San Jose Railroad Company, party of the first part, in and to the foregoing articles, do hereby consent to the terms and conditions in said articles contained, and do consent to the consolidation therein provided for. Done this, the eleventh day of October, 1870.

H. M. NEWHALL.
P. DONAHUE.
CHAS. MAYNE.
W. C. RALSTON.
JAS. O'NEILL.
G. PALACHE.
MYLES D. SWEENEY.

The undersigned, being holders of more than three-fourths in value of the capital stock of the Santa Clara and Pajaro Valley Company, party of the second part in and to the foregoing articles, do hereby consent to the terms and conditions in said articles contained, and do consent to the consolidation therein provided for.

Done this, the eleventh day of October, 1870.

H. M. NEWHALL.
P. DONAHUE.
CHAS. MAYNE.
JAS. O'NEILL.
MYLES D. SWEENEY.
RICHD. P. HAMMOND.
J. L. WILLCUTT.
J. O. ELDRIDGE.
EDWARD MARTIN.

The undersigned, being holders of more than three-fourths in value of the capital stock of the Southern Pacific Railroad Company, party of the third part in and to the foregoing articles, do hereby consent to the terms and conditions in said articles contained, and do consent to the consolidation therein provided for.

Done this the eleventh day of October, 1870.

LLOYD TEVIS.
WM. E. BARRON.
By his Attorney in Fact, THOMAS BELL.
THOMAS BELL.
W. B. CARR,
B. B. MINOR.

The undersigned, being holders of more than three-fourths in value of the capital stock of the California Southern Railroad Company, party of the fourth part, in and to the foregoing articles, do hereby consent to the terms and conditions in said articles contained, and do consent to the consolidation therein provided for.

Done this, the eleventh day of October, 1870.

H. M. NEWHALL.
P. DONAHUE.
CHAS. MAYNE.
MYLES D. SWEENEY.
RICHD. P. HAMMOND.
J. L. WILLCUTT.
G. PALACHE.
J. O. ELDRIDGE.
EDWARD MARTIN.

[Endorsed]: Southern Pacific Railroad Company, being articles of association, amalgamation and consolidation of the San Francisco and San Jose, the Santa Clara and Pajaro Valley Railroad Companies, and the Southern Pacific and the California Southern Railroad Companies. Filed in office of the secretary of State, October 12, A. D. 1870. H. L. Nichols, Secretary of State.

Articles of Association of the Southern Pacific Branch Railroad Company.

Know all men by these presents, that we, the undersigned, being subscribers to the capital stock of a contemplated railroad from a point on the Southern Pacific Railroad at or near Salinas City, in Monterey county, southeasterly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin Valley division of the said Southern Pacific Railroad.

Also, from a point on the above-described line, at or near San Miguel in San Luis Obispo county; thence in a southerly direction to a point of intersection in Los Angeles county with the line of the Southern Pacific Railroad, running from Tehachapi Pass by way of Los Angeles to Fort Yuma, which stock so subscribed by us amounts to not less than one thousand dollars per mile for each mile of said railroad, and ten per cent in cash has been actually and in good faith paid thereon to E. H. Miller, Jr., one of the number, who has been by us appointed temporary treasurer, and being desirous of forming a corporation, do hereby, at a regular meeting of said

stockholders held pursuant to due notice thereof in writing given by said treasurer, adopt the following

Articles of Association.

Article First.

We, the undersigned, do hereby form and organize ourselves into a corporation, under and in pursuance of an act of the State of California, entitled "An act to provide for the incorporation of railroad companies and the management of the affairs thereof and other matters relating thereto," approved May 20, 1861, and of the several acts supplementary thereto and amendatory thereof, for the purpose of purchasing, constructing, owning, maintaining and operating a railroad from a point on the Southern Pacific Railroad at or near Salinas City, in the county of Monterey, southeasterly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin Valley division of the said Southern Pacific Railroad.

Also, from a point on the above-described line, at or near San Miguel, in San Luis Obispo county; thence in a southerly direction to a point of intersection in Los Angeles county, with the line of the Southern Pacific Railroad running from Tehachapi Pass, by way of Los Angeles to Fort Yuma. The counties into or through which the said railroad is intended to pass are Monterey, San Luis Obispo, Kern, Santa Barbara and Los Angeles.

Article Second.

The name of the said corporation is, and shall be, the "Southern Pacific Branch Railroad Company."

The time of the existence of the said company shall be fifty years. And the length of the proposed railroad, as near as may be, is one hundred and eighty miles, for the first described part; and two hundred and forty miles for the second described part, being an aggregate of four hundred and twenty miles.

Article Third.

The capital stock of the said corporation shall be twenty millions dollars, being the actual contemplated cost of constructing said railroad, together with the cost of the right of way, motive power and every other appurtenance and thing, for the completion and running of said road, as nearly as can be estimated by competent engineers. Said capital stock shall consist of and be divided into two hundred thousand shares of one hundred dollars each.

Article Fourth.

The number of directors to manage the affairs of said corporation shall be five, and the names of the persons chosen to act as such directors and to hold their offices until others are duly elected are E. H. Miller, Jr., Albert Gallatin, B. B. Redding, Benjamin R. Crocker and Charles H. Cummings. All of whom are subscribers to these articles of association.

In testimony whereof, we have hereunto severally subscribed our names, places of residence, and the number

of said shares of stock held by each, this 20th day of December, 1872.

Names.	Residence.	No. of Shares.	Amount.
E. H. Miller, Jr.	Sacramento	Five	$ 500.00
Albert Gallatin	"	Five	500.00
W. R. S. Foye	"	Five	500.00
C. H. Cummings	"	Five	500.00
E. I. Robinson	"	Five	500.00
Leland Stanford	"	2085 shrs.	208,500.00
Mark Hopkins	"	2085 "	208,500.00
Benjamin B. Redding	"	Five	500.00
E. W. Hopkins	"	Five	500.00
B. R. Crocker	"	Five	500.00
		4,210 shrs.	$421,000.00

State of California,
County of Sacramento. } ss.

On this twenty-third day of December, A. D. 1872, personally appeared before the undersigned, a notary public in and for said county of Sacramento, Charles H. Cummings, E. H. Miller, Jr., and Albert Gallatin, three of the directors of the "Southern Pacific Branch Railroad Company," who, being by me duly sworn, say, that more than one thousand dollars for each and every mile of the railroad proposed and mentioned in the foregoing articles of association, to wit, four hundred and twenty-one thousand ($421,000.00) dollars have actually and in good faith been subscribed to the capital stock of said com-

pany by persons whose names appear subscribed to the said articles of association, and that ten per cent on the said amount so subscribed, to wit, forty-two thousand one hundred ($42,100.00) dollars, have actually and in good faith been paid in cash to E. H. Miller, Jr., the treasurer named and appointed by said subscribers from among their number, and that the said subscribers are all known to the said three directors, and to each of them, to be subscribers to said articles of association, and to be the persons so represented.

E. H. MILLER, Jr.
ALBERT GALLATIN.
C. H. CUMMINGS.

Subscribed and sworn to before me, this 23rd day of December, A. D. 1872.

[Seal] CHARLES J. TORBERT,
Notary Public in and for Sacramento County, State of California.

[Endorsed]: Filed in the office of the secretary of State, December 23, 1872. Drury Melone, Secty. of State. Per H. H. Russell, Deputy.

State of California, Department of State.

I, D. M. Burns, secretary of State of the State of California, do hereby certify that I have compared the annexed copy of articles of association of the "Southern Pacific Branch Railroad Company," filed Dec. 23, 1872, in this office with the original now on file in my office, and that the same is a correct transcript therefrom and of the whole thereof.

Witness my hand and the Great Seal of State, at office in Sacramento, California, the 27th day of March, A. D. 1880.

[Seal]

D. M. BURNS,
Secretary of State.
By ————,
Deputy.

Articles of Association, Amalgamation and Consolidation,

Made and executed on this the twelfth day of August, A. D. 1873, by and between the Southern Pacific Railroad Company of the first part, and the Southern Pacific Branch Railroad Company of the second part, witnesseth:

That whereas, the said party of the first part heretofore, to wit, on the eleventh day of October, A. D. 1870, was duly incorporated and organized under the laws of the State of California, by the amalgamation and consolidation of the following railroad corporations theretofore existing under the laws of said State, to wit, The San Francisco and San Jose Railroad Company, The Santa Clara and Pajaro Valley Railroad Company, The Southern Pacific Railroad Company and the California Southern Railroad Company, pursuant to articles of amalgamation and consolidation of that date by them agreed upon, which articles were subsequently amended, to wit, on the eleventh day of April, A. D. 1871, by virtue of the laws of said State, whereby said corporation became duly incorporated and organized under the laws of said State for the purpose of purchasing, constructing, owning, maintaining and operating a continuous

line of railroad from the city of San Francisco in the State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino and San Diego to some point on the Colorado river in the southeastern part of the State of California, a distance of seven hundred and twenty miles, as near as may be; also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, a distance of three hundred and twenty-four miles as near as may be; also a line of railroad from the town of Gilroy in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City in said last-named county, a distance of forty-five miles, as near as may be, and also such branches to said lines as the board of directors of said corporation may consider advantageous to said corporation and direct to be established;

And whereas, the said party of the second part was heretofore, to wit, on the twenty-third day of December, A. D. 1872, duly incorporated and organized under the laws of the State of California for the purpose of purchasing, constructing, owning, maintaining and operating a railroad from a point on the Southern Pacific Railroad (the railroad of the party of the first part) at or near Salinas City in the county of Monterey, southeasterly to a point in Kern county, south to Tulare Lake, intersecting the San Joaquin Valley division of the said Southern Pacific Railroad; also from a point on the

above-described line, at or near San Miguel, in San Luis Obispo county, thence in a southerly direction to a point of intersection in Los Angeles county with the line of the said Southern Pacific Railroad running from Tehachapi Pass, by way of Los Angeles, to Fort Yuma—said roads passing into or through the counties of Monterey, San Luis Obispo, Kern, Santa Barbara and Los Angeles, and said roads, in the aggregate being, as near as may be, four hundred and twenty-eight miles in length;

And whereas, said parties believe a consolidation and amalgamation of their capital stocks, debts, properties, assets, roads, telegraphs, land and franchises will be mutually advantageous;

And whereas, more than three-fourths in value of all the stockholders in interest of each of said parties have consented in writing to such amalgamation and consolidation upon the terms and conditions hereinafter set forth:

Now, therefore, under and by virtue of the statutes of the State of California, in such case made and provided, the said parties do hereby mutually covenant and agree, each with the other, to the following articles, to wit:

Article First.

Said parties do hereby amalgamate and consolidate themselves into a new corporation under the name and style of the Southern Pacific Railroad Company, which new corporation shall continue in existence for the period of fifty years from the date of these articles; and they do further consolidate and amalgamate their several

capital stocks, debts, properties, assets, roads, telegraphs, lands, franchises, rights, titles, privileges, claims, and demands of every kind whatsoever as well as in possession as in expectancy, at law or in equity, and do grant, convey and vest the same in the said new corporation, as fully as the same are now severally held and enjoyed by them respectively, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, encumbrances, judgments, claims and charges thereon or in anywise affecting the same or any part thereof.

Article Second.

The object and purpose of said new corporation shall be to purchase, construct, own, maintain, and operate the several lines of railroad hereinbefore described, to wit, a line of railroad from the city of San Francisco in the State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino and San Diego, to some point on the Colorado river, in the southeastern part of the State of California, a distance of seven hundred and twenty miles as near as may be; also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles to the Texas Pacific Railroad at or near the Colorado river, passing through the counties of Los Angeles, San Bernardino and San Diego, a distance of three hundred and twenty-four miles as near as may be; also a line of railroad from the town of Gilroy in the county of Santa Clara in said State, passing through said county and the counties of Santa Cruz and Monterey to

a point at or near Salinas City, in said last-named county, a distance of forty-five miles, as near as may be; also a line of railroad from a point on the line thirdly above described at or near Salinas City in the county of Monterey, southeasterly through said county and into Kern county to a point south of Tulare Lake in said last-named county, intersecting at said point the line of railroad first above described, a distance of one hundred and eighty miles, as near as may be; also a line of railroad from a point on the last-above described line, at or near San Miguel in the county of San Luis Obispo, thence in a southerly direction through said county, the county of Santa Barbara, and into the county of Los Angeles, to a point of intersection with the line of railroad secondly above described, to wit, the line from Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, a distance of two hundred and forty miles, as near as may be, making in all fifteen hundred and nine miles, as near as may be, and such branches to said lines as the board of directors of said new corporation may hereafter from time to time establish.

Article Third.

The board of directors of said new corporation shall consist of seven persons, and the following named persons shall act as such directors until their successors shall have been duly elected pursuant to the by-laws of said new corporation hereafter to be adopted, viz: C. P. Huntington, D. D. Colton, Robert Robinson, Charles Mayne, S. T. Gage, E. H. Miller, Jr., and J. L. Willcutt.

Article Fourth.

The capital stock of said new corporation shall be ninety million dollars, divided into nine hundred thousand shares of one hundred dollars each, that sum being the contemplated actual cost of said railroads, including telegraph lines, rolling stock, motive power, shops, depots, etc.

Article Fifth.

Each stockholder of each of said parties shall have the same number of shares of the capital stock of the new corporation which he now owns and holds of the capital stock of his respective company, upon the same terms and conditions, and shall be entitled to receive from said new corporation certificates therefor where the same has been fully paid up, upon the surrender of the certificates now held by him, and where the same has not been fully paid up, he shall receive such other evidence of his ownership as the board of directors of said new corporation shall direct upon the surrender of such evidence of his ownership of such unpaid stock as he may now hold.

Article Sixth.

And the said several parties of the first and second parts, each for itself, hereby sells, assigns, transfers, grants, bargains, releases, and conveys to the said new and consolidated company and corporation, its successors and assigns forever, all its property, real, personal, and mixed, of every kind and description, all its capital stock, all its interest in the shares of its capital stock subscribed but not fully paid for, all credits, effects, judg-

ments, decrees, contracts, agreements, claims, dues and demands of every kind and description, and all rights, privileges, and franchises, corporate and otherwise, held, owned or claimed by said parties of the first and second parts or either of them in possession or expectancy, either at law or in equity, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, encumbrances, claims and charges thereon or in anywise affecting the same.

Article Seventh.

The said new and consolidated company and corporation is to be liable for and shall fulfill, perform, do, and pay all and each of the contracts and agreements, covenants, duties, obligations, liabilities, debts, dues and demands of the said several parties of the first and second parts, but this amalgamation and consolidation shall not in any way relieve the said parties of the first and second parts, or the stockholders thereof, from any and all just liabilities.

In testimony whereof, the said party of the first part has caused this instrument to be signed by its vice-president (the president being absent) and its secretary, and its corporate seal to be hereunto affixed, and the said party of the second part has caused this instrument to be signed by its president and secretary, and its corporate seal thereunto affixed, in pursuance of orders and resolu-

tions of their several boards of directors made on the twelfth day of August, 1873.

SOUTHERN PACIFIC RAILROAD COMPANY.

[Seal] By DAVID D. COLTON,
Vice-President.

J. L. Willcutt,
Secretary.

SOUTHERN PACIFIC BRANCH RAILROAD COMPANY,

[Seal] By B. R. CROCKER,
President.

By E. H. Miller, Jr.,
Secretary.

We, the undersigned, being the holders of stock to the extent of more than three-fourths of the value of all stockholders in interest of the said Southern Pacific Railroad Company, party of the first part to the foregoing new articles of association, amalgamation and consolidation, the said parties of the first and second parts hereby consent to such amalgamation and consolidation and to the said new articles of association, this twelfth day of August, A. D. 1873.

LELAND STANFORD.
CONTRACT & FINANCE CO.,
Per W. E. Brown, Secty.
MARK HOPKINS.
ROBERT ROBINSON.
S. T. GAGE.
CHAS. MAYNE.
DAVID D. COLTON.
J. L. WILLCUTT.
E. H. MILLER, JR.

We, the undersigned, being the holders of stock to the extent of more than three-fourths of the value of all stockholders in interest of the said Southern Pacific Branch Railroad Company, party of the second part to the foregoing new articles of association, amalgamating and consolidating the said parties of the first and second parts, hereby consent to such amalgamation and consolidation and to the said new articles of association this twelfth day of August, A. D. 1873.

LELAND STANFORD.
E. H. MILLER, Jr.
ALBERT GALLATIN.
MARK HOPKINS.
E. W. HOPKINS.
C. H. CUMMINGS.
B. R. CROCKER.

[Endorsed]: Filed in the office of the secretary of state August 19, 1873. Drury Melone, Secty. of State. By H. H. Russell, Deputy. H. Recorded in Book 4, Page 584.

State of California, Department of State.

I, W. C. Hendricks, secretary of state of the State of California, do hereby certify that I have carefully compared the annexed copy of articles of association, amalgamation and consolidation of the Southern Pacific Railroad Company with the Southern Pacific Branch Railroad Company with the original now on file in my office, and that the same is a correct transcript therefrom and of the whole thereof. Also, that this authentification is in due form and by the proper officer.

Witness my hand and the Great Seal of State, at office in Sacramento, California, the 16th day of August, A. D. 1888.

[Seal]

W. C. HENDRICKS,
Secretary of State.
By H. B. Davidson,
Deputy.

[Endorsed]: U. S. Circuit Court, Southern District of Cal. United States vs. S. P. R. R. Co. No. 68. Master's Exhibit 102. Filed March 20, 1890. Chas. L. Batcheller, Master and Examiner in Chancery. Plaintiff's Exhibit No. 3. E. H. Lamme, Examiner. Opened and filed March 20th, 1890. Wm. M. Van Dyke, Clerk. U. S. Circuit Court, Ninth Circuit, Southern District of California. U. S. vs. S. P. R. R. Co. et al., No. 600. Plaintiff's Exhibit No. 7. Leo Longley, Special Examiner. Filed Nov. 20, 1895. Wm. M. Van Dyke, Clerk.

San Francisco, Thursday, September 28, 1893, 2:15 P. M.

Testimony of J. L. WILLCUTT.

J. L. WILLCUTT, called as a witness on behalf of the defendants, being duly sworn, testified as follows:

Direct Examination.

Mr. REDDING—Q. What is your present occupation?

A. Secretary of the Southern Pacific Railroad Company and other corporations.

Q. How long have you been secretary of the Southern Pacific Railroad Company? A. Since October, 1870.

Q. In what occupation were you before that time?

A. Secretary of the San Francisco and San Jose Railroad Company, which was one of several corporations that were consolidated into the Southern Pacific Railroad Company.

Q. Can you produce the resolution of the board of directors of the Southern Pacific Railroad Company, or a copy thereof, showing when you were appointed secretary, if desired by the Government counsel?

A. I can give you a certified copy of the record of the proceedings of the meeting at which I was elected.

Mr. REDDING.—I wish you would do so at your convenience.

Q. The Congress of the United States made a grant of lands on March 3, 1871, to the Southern Pacific Railroad Company, known as the branch line grant from Tehachapi by the way of Los Angeles to Fort Yuma; can you produce the minutes of the Southern Pacific Railroad Company at about that time, wherein, if it is a fact, the Southern Pacific Railroad Company accepted the terms, impositions and conditions of that grant? A. I can do so.

Q. Will you please produce them?

(Witness produces a book which is endorsed "Record A, Southern Pacific R. R. Co.")

Q. What volume have you produced?

A. Volume A of the minutes of the meetings of the Southern Pacific Railroad Company, both of the stockholders and the directors.

Q. Will you please turn to that page of the record wherein you were declared elected the secretary of the

company, and will you read, and quote in reading, that portion of the record of the particular meeting, giving it as to date, when you were elected?

Mr. CALL.—I object to the question, and to the testimony asked for, upon the ground that the same is incompetent, immaterial, and irrelevant; and upon the further ground that the Southern Pacific Railroad Company therein referred to is not the same corporation, nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions which are in evidence herein.

A. (Reads.) "At a meeting of the board of directors of the Southern Pacific Railroad Company held on Wednesday, the 12th day of October, 1870, for the purpose of organizing as a board and the election of the necessary officers for the ensuing year * * * J. L. Willcutt, was nominated for secretary, and receiving the unanimous

vote of the board was declared duly elected secretary of the company."

(I hereby certify that I have compared the statement of the witness in the foregoing answer with the minutes of the meeting of the board of directors of the Southern Pacific Railroad Company, held on Wednesday, the 12th day of October, 1870, as they appear on page 6 of the volume endorsed "Record A, Southern Pacific R. R. Co.," and find it to be a full, true, and correct statement of the words appearing in said minutes in that particular.

STEPHEN POTTER,
Special Examiner.)

Mr. REDDING.—I suppose that the same agreement between us will be followed in this case, that where the special examiner certifies to the correctness of a portion of any document or resolution, that that will suffice instead of putting the entire volume in evidence?

Mr. CALL.—I have no objections to the special examiner making a copy of such parts of the written evidence as you direct him to make in this instance, and that it may stand in lieu of the original, subject to the same objections made.

Mr. REDDING.—Mr. Examiner, if the quotation of the witness from the original record is correct, will you please state so in parenthesis after the quotation in your record of this testimony?

Q. Will you please turn to the resolution of the board of directors of the Southern Pacific Railroad Company, if such resolution exists, wherein it was resolved to accept

the terms, impositions, and conditions of the act of Congress of March 3, 1871, above referred to, and will you read that resolution from your original record?

(Same objection.)

A. (Reads.) "At a meeting of the board of directors held on May 16, 1871, the following resolution was presented by Lloyd Tevis, and adopted by a unanimous vote: Resolved, that this company will and does hereby accept the terms, conditions, and impositions of the act of the Congress of the United States, entitled 'An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes,' approved March 3d, 1871, and that a copy of this resolution of acceptance, certified under the seal of this company, be forwarded to and filed with the secretary of the interior."

(I hereby certify that I have compared the statement of the witness in the foregoing answer with the minutes of the meeting of the board of directors of the Southern Pacific Railroad Company held on May 16, 1871, as they appear on page 41 of the volume endorsed "Record A, Southern Pacific R. R. Co.," and find it to be a full, true, and correct statement of the words appearing in said minutes in that particular.

STEPHEN POTTER,
Special Examiner.)

Mr. CALL.—The evidence is objected to upon the ground that the same is incompetent, immaterial, and irrelevant; and upon the further ground that the Southern Pacific Railroad Company therein referred to is not the

same corporation nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that *that* the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions which are in evidence herein; and upon the further ground that it is not the best evidence of the matter sought to be adduced.

Mr. REDDING.—Q. Is that resolution followed by the seal of the company and the signature of the secretary of the company, certifying that the resolution was passed?

A. It is not usual to place any seal, but to sign upon the records by myself, as secretary of the meeting, which was done in this case.

Q. Has a copy of this resolution been forwarded by you as secretary and deposited in the interior department?

(Same objection.)

A. It has been.

Q. What directors were present at that meeting of the company when that resolution was passed?

(Same objection.)

A. Charles Crocker, Leland Stanford, Lloyd Tevis, Charles Mayne and Peter Donahue.

Q. Who were the directors of the Southern Pacific Railroad Company at that time?

(Same objection.)

A. Those already named, together with C. P. Huntington and Mark Hopkins.

Q. Is that the original record that you are reading from?

(Same objection.)

A. Yes, sir.

Q. Is that your signature attached to the resolution?

(Same objection.)

A. Yes, sir; attached to the proceedings of the meeting.

Q. Did you sign your name there?

(Same objection.)

A. Yes, sir.

Q. Were you present at the meeting?

(Same objection.)

A. Yes, sir.

Q. Did you hear the resolution proposed and carried?

(Same objection.)

A. I did; I read it myself.

Q. Were those gentlemen present that you have enumerated?

(Same objection.)

A. They were.

Q. Did you see them there?

(Same objection.)

A. Yes, sir.

Q. Have you, as secretary of the Southern Pacific Railroad company, had in charge, or been instrumental in making any reports to the interior department of the Government of the proceedings of this railroad company subsequent to March 3, 1871, and in pursuance of the act of Congress last above referred to?

(Same objection.)

A. I have.

Q. Will you state in what manner reports have been made, and for what purpose, and generally with reference to what subject matter, from the Southern Pacific Railroad Company to the interior department?

(Same objection.)

A. I have here a complete list of such reports, which I can give in extenso, if they are wished.

Q. What are those reports in general?

(Same objection.)

A. The operations of the road.

Q. Please give a list of these reports that have been made through your instrumentality to the interior department subsequent to 1870?

(Same objection.)

A. In 1871, 1872, 1873, 1874, 1875, 1876, and 1877 annual reports were made to the secretary of the interior for the year ending June 30th. They called for: 1st. Names and residences of stockholders; 2d. Names and

residences of directors; 3d. Amount of stock subscribed and amount of stock actually paid in; 4th. A description of the lines of road surveyed, of the lines thereof fixed upon for the construction of the road and the total cost of such surveys; 5th. The amount received from passengers on the road; 6th. The amount received for freight thereon; 7th. The expense of said road and its fixtures, total and annual separately; 8th. The indebtedness of said company, setting forth the various kind thereof; and were accompanied by the reports of the chief engineer, superintendent and land agent.

For the years 1878, 1879, and 1880 semi-annual and annual reports were made to the United States auditor of railroad accounts.

The report to June 30, 1878, called for:

Names and residences of officers and directors with business address.

Copies of printed reports of the company for years 1873 to 1877, inclusive.

Copies of all schedules of rates—passenger and freight.

Copies of all joint schedule of rates—passenger and freight.

Copies of all contracts for special rates—passenger and freight.

Debit and credit footings of ledger on June 30, 1877, December 31, 1877, and June 30, 1878.

Copies of contracts with any telegraph company, sleeping-car company and express company or fast freight line or transportation company.

Copy of by-laws.

Revenue from all sources for six months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Special report of ownership and control of road.

Copy of lease with Central Pacific Railroad Co.

Copies of articles of association with San Francisco and San Jose Railroad Co. et al., Southern Pacific Branch Railroad Co. and Los Angeles and San Pedro Railroad Co.

Statistics of passenger and freight traffic for year ending December 31, 1877, and 6 months ending June 30, 1878.

Statement showing kinds and amount of freight moved for 6 months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Operating and other expenses for six months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Income expenses for 6 months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Amount expended in construction and improvements for six months ending June 30, 1877, December 31, 1877, and June 30, 1878, and total cost of road to June 30, 1878.

Statistics of employees, materials, buildings, etc., and general and income expenses for 6 months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Accidents, casualties, etc., for 6 months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Funded debt and sinking funds for 6 months ending June 30, 1877, December 31, 1877, and June 30, 1878.

Capital stock for 6 months ending June 30, 1877, December 31, 1877, and June 30, 1878.

List of stocks and bonds of other railroads and corporations owned and held on June 30, 1877, December 31, 1877, and June 30, 1878.

List of locomotives and tenders owned June 30, 1878.

List and description of cars.

A report (in book form) for the half year ending December 31, 1878, called for.

Corporate name and title of company.

Date of incorporation.

Previous name or names.

Date of opening entire main line to public business.

With what other companies consolidated and dates of consolidation.

Length and termini of projected road.

Termini of main line and of branches as constructed.

Location of principal business office where stockholders and directors meet.

Location of offices for transfer of stock.

Location of offices for payment of interest.

Location of general business or operating office.

Present number of stockholders.

Date of annual meeting for election of directors.

Dates of regular meetings of directors.

Date of close of company's fiscal year.

Officers: Name, title, postoffice address.

Directors: Name, postoffice address, expiration of term.

Capital stock:

No. of shares, common, preferred, total.

Authorized by law or charter.

Issued for actual cash.

Issued on account of construction.

Issued for other purposes.

Issued for purchase of other lines.

Amount outstanding.

Increase or decrease during the half year.

Par value of shares.

Average price at which stock was disposed of per share.

Rate of interest or dividend on preferred stock.

Funded debt:

Designation of lien.

Coupon or registered.

Interest, rate per cent. per annum.

Date of issue.

Term of years.

Amount.

Amount realized thereon.

Cost of construction—with items in detail.

Additions and betterments during the half year.

Cost of rolling stock—with items in detail.

Additions and betterments during the half year.

Earnings (by months)—Passenger, freight, mail, express, etc.

Operating expenses (by months) in detail.

Operations of the land department—Financial.

Receipts and expenses in detail apportioned—Congressional lands—all lands.

Expenditures and revenue—in detail.

General balance sheet—at closing of accounts December 31, 1878.

Traffic and mileage statistics—passenger.

Traffic and mileage statistics—freight.

Freight classification (2 forms).

Express and transportation companies, etc.

Brief statement of existing contracts and agreements with express companies, sleeping car or dining car companies, freight or transportation companies, other railroad companies, steamboat or steamship companies or other companies or persons, concerning the transportation of freight or passengers.

Brief statement of the terms and conditions of all existing leases affecting this company.

Operations of the land department—Statistical:

Congressional lands—Acquired (No. of acres during half year; total at close of half year.)

By United States patent.

By patent of State.

By cancellation of contracts.

Congressional lands—Disposed of—same as above:

For cash.

On time contracts.

As town lots for cash.

As town lots on time contracts.

Miscellaneous lands—Acquired (No. of acres during half year; total at close of half year):

By purchase.

By cancellation of contracts.

Miscellaneous lands—Disposed of (No. of acres during half year; total at close of half year):

For cash.

On time contracts.

As town lots for cash.

As town lots on time contracts.

Characteristics of road—Miles of track owned, leased, total.

Length, main line, extension lines, branch lines, double track, side track.

Miles laid with iron rail—American—foreign.

Miles laid with steel rail—American—foreign.

(Constructed during half year—total at end of year.)

Grades—ascending, descending, total.

Curves—total miles curved line, etc.

Bridges—stone, iron suspension, iron, other, wood, etc.

Miscellaneous characteristics.

Description of rolling stock—locomotives, cars, etc., in detail.

Miscellaneous statistics: Fuel used, speed of trains, accidents, all in detail.

Employees—Number, average rate of pay, character of service.

A report was made for the half year ending June 30, 1879, in same book form.

Reports for the half year ending December 31, 1879, June 30, 1880, and December 31, 1880, were made in exhaustive detail in book form designated as 8-002.

In addition to these reports there were furnished (on sheet forms sent to us by the United States auditor of railroad accounts) reports of revenue, operating and income expenses, tonnage, mileage, etc. for same periods.

Commencing with 1881 and since that year the reports have been made to the commissioner of railroads, and for

the half years ending June 30, 1881, December 31, 1881, June 30, 1882, December 31, 1882, June 30, 1883, and December 31, 1883, were made in same book form (8-002), and in addition we also furnished upon separate sheets statements of earnings and expenses by months for the years ending December 31, 1881, 1882, and 1883.

For the years ending June 30, 1884, and 1885, and the half year ending December 31, 1885, Reports were made in book form designated 8-008, the first two periods being accompanied by same statements of earnings and expenses as before.

Commencing with the year ending December 31, 1885, yearly and half yearly reports were made in Book form designated "A" and "B" respectively, up to and including the year ending December 31, 1888, since which date only annual reports have been asked for and made, viz: for the years ending June 30, 1889, and 1890, 1891, 1892, and 1893.

Mr. REDDING—Q. You state throughout this list of reports that they were asked for; by whom were they asked for?

(Same objection.)

A. The officers to whom the reports were made.

Q. To whom were these reports made?

(Same objection.)

A. As stated in the reports, part of the time to the secretary of the interior, part of the time to the United States auditor of railroad accounts.

Q. In other words, to various officers of the Government.

(Same objection.)

A. Yes, sir.

Q. Have you in your possession, and can you produce any of these requests made upon the Southern Pacific Railroad Company by officers of the Government?

(Same objection.)

A. Yes, sir, they are all on file in my office.

Q. Have these annual reports and semiannual reports of the Southern Pacific Railroad Company been made and forwarded at the direct instigation of the Government of the United States through its officers?

(Same objection.)

A. They have been.

(An adjournment was then taken by consent of counsel until Thursday, September 29, 1893, at 10:30 A. M.)

San Francisco, September 30, 1893.

Direct Examination of J. L. WILLCUTT (resumed).

Mr. REDDING.—Q. Will you state generally in what manner you have been requested or ordered to make reports to the Government of the United States, as secretary of the Southern Pacific Railroad Company, of its actions, transactions, and doings under its land grants of July 27, 1866, known as the main line grant, and of March 3, 1871, known as the branch line grant?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant; and upon the further ground that the Southern Pacific Railroad Company therein referred to is not the same corporation nor the same Southern Pacific Railroad Company defendant in this suit; and upon the further ground that the lands involved in this

case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions which are in evidence herein, and upon the further ground that it is not the best evidence of the matters sought to be adduced.)

A. In some instances the forms upon which the reports were made have been sent to me direct, and sometimes through the Southern Pacific Company as lessee of various railroad properties.

Q. Have you been able to procure from your archives any original correspondence between the Government of the United States, through its officers, on the one side, and the Southern Pacific Railroad Company, through its officers, on the other side, in relation to the branch line grant of March 3, 1871?

(Same objection.)

A. I have considerable of such correspondence upon my files.

Mr. REDDING.—Defendants offer in evidence an original letter from the department of the interior and from the acting secretary of the interior to the President of the Southern Pacific Railroad Company, dated April 3, 1871; and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 65," and ask that the special examiner make a certified copy of the same in lieu of the original.

(Same objection.)

(The letter from the department of the interior and from the acting secretary of the interior to the president of the Southern Pacific Railroad Company, dated April 3, 1871, is marked by the special examiner "Defendant's Exhibit before the Special Examiner No. 65, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants offer in evidence original letter from the department of the interior to the president of the Southern Pacific Railroad Company, and from the secretary of the interior dated August 5, 1868, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 66," which reads as follows.

Mr. CALL.—I object, in addition to the grounds above mentioned to reading matters into the record, where they are offered in evidence as exhibits, on the ground that it encumbers the record, and is superfluous.

Mr. REDDING.—(Reads:) "Sir: I invite your attention to an act entitled 'An act relative to filing reports of railroad companies,' approved June 25, 1868.

"It will be perceived that the reports required by the act of July 1, 1862, and the acts amendatory thereof, to be made to the secretary of the treasury, are hereafter to be made to the secretary of the interior 'on or before the first day of October of each year.'

"Very respectfully,

"Your obt. servant,

"O. H. BROWNING,

"Secretary.

"President of the Southern Pacific R. R. Co., San Francisco, Cal."

(Same objection.)

(Letter from the department of the interior to the president of the Southern Pacific Railroad Company and from the secretary of the interior, dated August 5, 1868, is marked by the special examiner "Defendant's Exhibit before the Special Examiner No. 66, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence a letter from the department of the interior, dated September 26, 1868, to the president of the Southern Pacific Railroad Company, requesting the said Company to furnish a report of the progress and condition of the road, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 67."

Mr. CALL.—The admission of the letter is objected to upon the ground that the same is incompetent, immaterial, and irrelevant; and upon the further ground that the Southern Pacific Railroad Company therein referred

to is not the same corporation, nor the same Southern Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic & Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions which are in evidence herein; and upon the further ground that it is not the best evidence of the matters sought to be adduced.)

(The letter from the department of the interior, dated September 26, 1868, to the president of the Southern Pacific Railroad Company, requesting the said company to furnish a report of the progress and condition of the road, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 67, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior dated Washington, August 31, 1870, directed to the president of the

Southern Pacific Railroad Company, calling for reports of the said company to be made to the interior department, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 68."

(Same objection.)

(Letter from the department of the interior, dated Washington, August 31, 1870, directed to the President of the Southern Pacific Railroad Company calling for reports of the said company to be made to the interior department, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 68, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the secretary of the interior, department of the interior, dated the first of September, 1876, addressed to the president of the Southern Pacific Railroad Company, and enclosing a printed circular issued by the department on the twenty-sixth of October, 1872, concerning the annual reports of railroad companies which the law requires to be filed in the interior department, and requesting that reports in conformity with said printed circular be made, and ask that a copy of said letter, with the copy of the printed circular attached, be marked "Defendants' Exhibit before the Special Examiner No. 69."

(Same objection.)

(Letter from the secretary of the interior, department of the interior, dated the first of September, 1876, and addressed to the president of the Southern Pacific Rail-

road Company, and enclosing a printed circular issued by the department on the twenty-sixth of October, 1872, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 69, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence a series of letters from the interior department, and directed to the officers of the Southern Pacific Railroad Company, calling upon them for annual, semiannual and other reports of the proceedings of said company, and between the dates of July 13, 1878, and May 12, 1881, acknowledging the receipt of said reports in certain instances, and ask that the same be marked "Defendants' Exhibit before the Special Examiner No. 70," and that the Special Examiner make certified copies of all these exhibits heretofore offered in the shape of this correspondence, and hereafter to be offered, and when certified to be substituted in lieu of the originals.

(Same objection.)

(A series of letters from the interior department directed to the officers of the Southern Pacific Railroad Company, calling upon them for annual, semiannual and other reports of the proceedings of said company dated respectively July 13, 1878, July 22, 1878, July 26, 1878, July 29, 1878, August 1, 1878, August 27, 1878, September 3, 1878, September 9, 1878, September 20, 1878, September 27, 1878, October 1, 1878, October 4, 1878, October 7, 1878, October 10, 1878, October 12, 1878, October 15, 1878, October 16, 1878, October 17, 1878, October 19, 1878, October

22, 1878, October 24, 1878, April 17, 1879, May 17, 1879, September 1, 1879, February 28, 1880, March 18, 1880, March 22, 1880, May 6, 1880, July 2, 1880, July 22, 1880, September 7, 1880, September 18, 1880, March 1, 1881, March 19, 1881, April 19, 1881, May 12, 1881, May 12, 1881, are marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 70, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence a letter from the department of the interior, secretary of the interior of October 2, 1868, acknowledging receipt of the annual report of the Southern Pacific Railroad Company, addressed to the president of the Southern Pacific Railroad Company, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 71."

(Letter from the department of the interior, dated October 2, 1868, acknowledging receipt of the annual report of the Southern Pacific Railroad Company, addressed to the president of the Southern Pacific Railroad Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 71, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., November 2, 1881, to the secretary of the Southern Pacific Railroad Company, and signed by Jos. E. McCammon, Commissioner, acknowledging the receipt of semiannual re-

port of the Southern Pacific Railroad Company, for the six months ending June 30, 1881, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 72."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., November 2, 1881, to the secretary of the Southern Pacific Railroad Company, signed by Jos. K. McCammon, commissioner, acknowledging the receipt of semiannual report of the Southern Pacific Railroad Company for the six months ending June 30, 1881, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 72, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., February 1, 1882, signed by the commissioner, and addressed to the secretary of the Southern Pacific Railroad Company, acknowledging the statistical enclosures of annual reports for 1880, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 73."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington D. C., February 1, 1882, signed Jos. K. McCammon, Commissioner, per W. M. F., addressed to the secretary of the Southern Pacific Railroad Company, is marked by the special examiner "Defendants' Exhibit before the Special Exam-

iner No. 73, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., May 20, 1882, addressed to the secretary of the Southern Pacific Railroad Company, acknowledging receipt of the report for the half year ending December 31, 1881, of the Southern Pacific Railroad Company, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 74."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., May 20, 1882, addressed to the secretary of the Southern Pacific Railroad Company, acknowledging receipt of the report for the half year ending December 31, 1881, of the Southern Pacific Railroad Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 74, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, Washington, D. C., November 9, 1882, signed by the commissioner, and addressed to the secretary of the Southern Pacific Railroad Company, acknowledging receipt of the report of the Southern Pacific Railroad Company for the half year ending June 30, 1882, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 75."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., November 9, 1882, signed William H. Armstrong, Commissioner, per F. B. P., addressed to the secretary of the Southern Pacific Railroad Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 75, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., August 11, 1883, and addressed to the secretary of the Southern Pacific Railroad Company, acknowledging receipt of the report of the Southern Pacific Railroad Company for the half year ending December 31, 1882, signed by the commissioner, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 76."

(Same objection.)

(Letter from the department of the interior, office of commission[illegible] of railroads, dated Washington, D. C., August 11, 1883, addressed to the secretary of the Southern Pacific Railroad Company, acknowledging receipt of report of the Southern Pacific Railroad Company for the half year ending December 31st, 1882, signed W. H. Armstrong, Commissioner, per T. J. Walker, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 76, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of com-

missioner of railroads, dated Washington, April 3, 1894, addressed to the secretary of the Southern Pacific Railroad Company and signed by the commissioner, instructing the Southern Pacific Railroad Company to render an annual report in lieu of the half yearly reports heretofore required, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 77."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, April 3, 1884, addressed to the secretary of the Southern Pacific Railroad Company and signed F. B. Pickerill for the commissioner, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 77, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, September 6, 1884, addressed to the secretary of the Southern Pacific Railroad Company and signed by Thomas J. Walker, in charge of office in the commissioner's absence, acknowledging the receipt of the report of the Southern Pacific Railroad Company for 1884, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 78."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, September 6, 1884, addressed to the secretary of the Southern Pa-

cific Railroad Company, signed by Thomas J. Walker, in charge of office in the commissioner's absence, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 78, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, February 10, 1885, signed by the commissioner, and addressed to the secretary of the Southern Pacific Railroad Company, acknowledging the two full sets of reports of the Southern Pacific Railroad Company, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 79."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, February 10, 1885, signed F. B. Pickerill, and addressed to the secretary of the Southern Pacific Railroad Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 79, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence a letter from the office of the commissioner of railroads, department of the interior, dated Washington, May 22, 1885, addressed to J. L. Willcutt, secretary of the Southern Pacific Railroad Company, signed by the commissioner, stating that the obligations of the Southern

Pacific Railroad Company of California to the United States Government are in no manner affected by any leases, and that therefore the reports and statements of operations of the company shall be sent on hereafter as heretofore, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 80."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, May 22, 1885, addressed to J. L. Willcutt, secretary of the Southern Pacific Railroad Company, signed J. E. Johnston, commissioner, is marked by the special examiner, "Defendants' Exhibit before the Special Examiner No. 80, Stephen Potter, Special Examiner"; a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, December 21, 1885, addressed to the president of the Southern Pacific Railroad Company, and enclosing rules established by the secretary of the interior on the subject of the reports and accounts to be furnished the interior department by the Southern Pacific Railroad Company, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 81."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, December 21, 1885, addressed to the president of the Southern Pacific Railroad Company, and signed J. E. Johnston,

commissioner, enclosing rules established by the secretary of the interior, on the subject of the reports and accounts to be furnished the interior department by the Southern Pacific Railroad Company, together with the enclosure, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 81, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, August 30, 1886, and signed by the commissioner in charge, addressed to the secretary of the Southern Pacific Railroad Company, acknowledging the receipt of reports for that year ending June 30, 1886, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 82."

(Same objection.)

(Letter from department of the interior, office of commissioner of railroads, dated Washington, August 30, 1886, addressed to the secretary of the Southern Pacific Railroad Company, and signed "Very respectfully, in absence of the commissioner, Edward Herrick, in charge," is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 82, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., May 7,

1887, signed by the commissioner, addressed to the secretary of the Southern Pacific Railroad Company, and acknowledging the receipt of reports of the Southern Pacific Railroad Company, Forms A and B, for December 31, 1886.

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, May 7, 1887, addressed to the secretary of the Southern Pacific Railroad Company, signed "Edward Herrick, for the commissioner," is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 83," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Q. Mr. Willcutt, have you received instructions from the department of the interior enclosing blank forms for filling in and forwarding to the interior department of the United States, which forms when filled in are to show the reports of the proceedings and transactions of the Southern Pacific Railrad Company for the years indicated?

(Same objection.)

A. I have since the year 1878; prior to that I have not; I had a written form of report up to and including the year 1877; since then they have furnished me with blanks.

Q. Has the interior department from time to time changed the forms of those blanks sent to your office?

(Same objection.)

A. Yes, sir.

Mr. REDDING.—Defendants next offer in evidence letter dated May 7, 1887, from the department of the in-

terior, office of commissioner of railroads, addressed to J. L. Willcutt, Esq., secretary of the Southern Pacific Railroad Company, signed by Edward Herrick, for the commissioner, enclosing a supply of blank forms as follows, "3 Forms 8-002," and ask that it be marked "Defendants' Exhibit before the Special Examiner, No. 84."

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant, and upon the further ground that the SouthernPacific Railroad Company therein referred to is not the same corporation nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company, and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions which are in evidence herein; and upon the further ground that it is not the best evidence of the matter sought to be adduced; and upon the further ground that it is not an official letter by any officer of the United States authorized to send such letter.)

(Letter dated Washington, May 7, 1887, from the department of the interior, office of commissioner of railroads, addressed to the secretary of the Southern Pacific Railroad Company, and signed by Edward Herrick, for the commissioner, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 84, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Q. Were three forms 8-002 enclosed you in such letter of May 7, 1887?

(Same objection.)

A. Probably sent in a separate package; they were received by me.

Q. Did you, as secretary of the Southern Pacific Railroad Company, make out the semiannual reports on said forms?

(Same objection.)

A. I did.

Q. And forward them?

(Same objection.)

A. I did.

Q. Have you from year to year, as indicated in these letters, and at the times indicated in these letters, which letters show the receipt of these reports, made out reports in accordance with the forms furnished you as secretary of the Southern Pacific Railroad Company by the interior department?

(Same objection.)

A. Yes, sir.

Mr. CALL.—I want to say here that as to any letters which are signed by the secretary of the interior, or his proper assistant, or acting secretary of the interior, I have no objections to the special examiner making certified copies to stand in lieu of the originals; but as to any letters here which are not signed in that manner I wish the originals to be introduced in evidence, and I shall not consent to copies being made of them. That includes the letter just offered dated May 7, 1887.

Mr. REDDING.—We have no objection to letting the original letter go in.

Defendants next offer in evidence letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., September 17, 1887, to the secretary of the Southern Pacific Railroad Company, signed by Edward Herrick, for the Commissioner, acknowledging receipt of Form B, for June 30, 1887.

(Objected to by Mr. Call as incompetent, immaterial and irrelevant, and upon the further ground that the Southern Pacific Railroad Company therein referred to is not the same corporation nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon

the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California in a suit between the same parties, as shown by the records of such decisions, which are in evidence herein; and upon the further ground that it is not the best evidence of the matters sought to be adduced; and upon the further ground that it is not an official letter by any officer of the United States authorized to send such letter; and also upon the further ground that the letter offered is not signed by any officer of the United States.

(Letter from the department of the interior, office of commissioner or railroads, dated Washington, September 17, 1887, addressed to the secretary of the Southern Pacific Railroad Company and signed Edward Herrick, for the commissioner, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 85, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence a letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., April 2, 1888, addressed to the secretary of the Southern Pacific Railroad Company, signed by Edward Herrick, for the commissioner, acknowledging receipt of reports A and B for December 31, 1887, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 86."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, April 2,

1888, addressed to the secretary of the Southern Pacific Railroad Company, signed by Edward Herrick, for the commissioner, is marked by the special examiner, "Defendants' Exhibit before the special examiner No. 86, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence a letter from the department of the interior, office of commissioner of railroads, dated Washington, D. C., June 4, 1889, signed by Edward Herrick, in charge, addressed to the secretary of the Southern Pacific Railroad Company, acknowledging receipt of reports Form A for the year ending December 31, 1888, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 87."

(Same objection.)

(Letter from the department of the interior, office of commissioner of railroads, Washington, D. C., June 4, 1889, addressed to the secretary of the Southern Pacific Railroad Company, signed by Edward Herrick, in charge, is marked by the special examiner, "Defendants' Exhibit before the Special Examiner No. 87, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Q. Since the year 1889, to whom have the reports of the Southern Pacific Railroad Company to the interior department of the United States been acknowledged?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant, and upon the further ground

that the Southern Pacific Railroad Company therein referred to is not the same corporation nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions, which are in evidence herein, and upon the further ground that it is not the best evidence of the matters sought to be adduced.)

A. Acknowledgment has been made to Mr. G. L. Lansing, secretary of the Southern Pacific Company, in connection with an acknowledgment of a report of the Southern Pacific and the Central Pacific Railroad Companies; one acknowledgment has been made for the three reports.

Mr. REDDING.—Defendants give notice that they have made requests for certified copies of the reports on file in the interior department, and have asked the interior department to make these copies, and forward them at their earliest convenience to the special examiner in

this case, Mr. Stephen Potter, to his address, San Francisco, or to the standing examiner, Mr. E. H. Lamme, Los Angeles, California; and that when the same are made and forwarded by the interior department, duly certified, that they will be offered in evidence by the defendants in this action.

Defendants offer in evidence the articles of consolidation and amalgamation, dated December 17, 1874, between the Southern Pacific Railroad Company and the Los Angeles and San Pedro Railroad Company, and ask that the special examiner make a certified copy of the articles in lieu of the original, and that the same be marked "Defendants' Exhibit before the Special Examiner No. 88."

(Articles of association, amalgamation and consolidation of the Southern Pacific Railroad Company and the Los Angeles and San Pedro Railroad Company, dated December 17, 1874, filed in the office of the secretary of state, December 18, 1874, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 88, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence articles of amalgamation and consolidation of the Southern Pacific Railroad Company with other railroad companies, dated May 4, 1888, and ask that the same be marked "Defendants' Exhibit before the Special Examiner No. 89," and that the special examiner certify to a printed copy of the same.

(Articles of association, incorporation, amalgamation, and consolidation of the Southern Pacific Railroad Com-

pany with the San Jose and Almaden and sixteen other railroad companies, dated May 4, 1888, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 89, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Q. Will you state, as secretary of the Southern Pacific Railroad Company, whether the stock of the Southern Pacific Railroad Company was changed in these amalgamations and consolidations herein referred to, or whether it remained the same?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant, and upon the further ground that the Southern Pacific Railroad Company therein referred to is not the same corporation nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States, and by the United States Circuit Court for the Southern District of California, in a suit between the same parties, as shown by the records of such decisions, which are in evidence herein; and upon the further ground that it is

not the best evidence of the matters sought to be adduced.)

A. It remains the same.

Q. Has the business of the Southern Pacific Railroad Company since December 2, 1865, been transacted as one main corporation down to the present time?

(Same objection.)

A. It has.

Q. How long have you had charge of the books of this corporation?

(Same objection.)

A. Since October, 1870.

Q. Have you been its secretary ever since?

(Same objection.)

A. I have.

Q. Do you know whether or not the identity of the Southern Pacific Railroad Company as it existed at that time has been preserved down to the present time?

(Same objection.)

A. It has.

Q. Have the accounts of this company been kept continuously by you so far as your duties of secretary apply to the accounts and finances of this company?

(Same objection.)

A. I have.

Q. Do you know as a fact whether or not the Southern Pacific Railroad Company has forwarded to the interior department, to the secretary of the interior of the United States, to the auditor of railroad accounts of the United States, to the commissioner of railroads of the United

States, full reports giving full answers to all requests and demands made upon the company by those several officers of the Government?

(Same objection.)

A. Yes, sir; I do.

Q. Were these reports made under your supervision and by you as secretary?

(Same objection.)

A. Yes, sir.

Q. Do you know that the information therein set forth is authentic and correct excerpts from your books and from the business of the company?

(Same objection.)

A. Yes, sir.

Q. Did you compare them before they were sent in each instance and have them compared?

(Same objection.)

A. The matter was furnished by the heads of the different departments to me.

Q. Did you compare the information furnished with the reports as sent by you, or have it compared?

(Same objection.)

A. I had it compared.

Q. Did these reports contain from time to time the names of the stockholders of the Southern Pacific Railroad Company as they have existed for each year from the date of the first report down to the date of the last report?

(Same objection.)

A. I think that has been one of the requirements in every form of report which has been made.

Q. Do these reports also include the names of the directors in each year?

(Same objection.)

A. Yes, sir.

Q. The amount of the capital stock of the corporation from time to time?

(Same objection.)

A. Yes, sir.

Q. The complainant in the case at bar alleges in paragraph sixteen of his bill of complaint that the defendants D. O. Mills and G. L. Lansing have a mortgage or deed of trust from the defendant, the Southern Pacific Railroad Company, covering the lands involved in this suit to secure the payment of certain indebtedness of said company to them as trustee, dated April 1, 1875; is there such a mortgage in existence?

(Same objection.)

A. There is (producing).

Mr. REDDING.—Defendants offer in evidence the original trust mortgage of the Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, dated April 1, 1875, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 90." and with the usual understanding that a certified copy of the original may be substituted in lieu of the original.

Mr. CALL.—I have no objection to a certified copy being made in lieu of the original, subject to the same objections.

(Same objection.)

(Trust mortgage, Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees, dated April 1, 1875, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 90, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Q. Will you state from the books of the Southern Pacific Railroad Company what the amount of the bonds is that was issued under this mortgage?

(Same objection.)

A. $39,285,000, a portion of which has been redeemed.

Q. What is the amount outstanding at present?

(Same objection.)

A. $31,293,500.

Q. Are the bonds issued under this mortgage negotiable?

(Same objection.)

A. Yes, sir.

Q. Have they passed into the hands of third parties for value received?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant; and upon the further ground that the Southern Pacific Railroad Company therein referred to is not the same corporation nor the same Southern Pacific Railroad Company, defendant in this suit; and upon the further ground that the lands involved in this case were excepted out of the grant to the Southern Pacific Railroad Company by the terms and conditions of the act of Congress of July 27, 1866, and the act of Congress of March 3, 1871, the lands in suit herein having

been withdrawn for the benefit of the Atlantic and Pacific Railroad Company and reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the questions of law and of fact at issue in this case have been finally adjudicated by the Supreme Court of the United States and by the United States Circuit Court for the Southern District of California in a suit between the same parties, as shown by the records of such decisions, which are in evidence herein; and upon the further ground that it is not the best evidenceof the matterssought to beadduced; and upon the further ground that the question calls for the opinion of the witness; and upon the further ground that the mortgage on its face discloses that it only purports to cover lands which were granted to the Southern Pacific Railroad Company; and upon the further ground that the alleged purchasers of such bonds are conclusively presumed to take notice of the terms of said mortgage and of the terms and conditions of the grant to said company by the acts of March 3, 1871, and July 27, 1866, and are also required to take notice of the records of the United States landoffice in the district where such lands are situated, and the records of the general landoffice at Washington, all of which discloses that the Southern Pacific Railroad Company had no interest in or title to said lands.

A. They have.

(An adjournment was then taken by consent of counsel until Monday, October 2, 1893, at 10 A. M.)

San Francisco, October 2, 1893.

Direct Examination of J. L. WILLCUTT (Resumed).

Mr. CALL.—We do not dispute the proposition that the defendant railroad company made reports to the secretary of the interior, as required by law, and I will make the admission that the Southern Pacific Railroad Company organized and created by the articles of incorporation of 1865 and articles of consolidation of 1870, 1873, 1874, and 1888, respectively, and in evidence herein, marked "Master's Exhibits Nos. 1, 2, and 3," and "Defendants' Exhibits before the Special Examiner Nos. 88 and 89," did, in pursuance of written demands from the secretary of the interior, make annual and semi-annual reports and other reports to the secretary of the interior of the United States, from the year 1870 down to and including 1893, and between the years 1878 and 1881, to the auditor of railroad accounts created under the act of Congress approved March 19, 1878, and commencing with 1881, and since that year to the commissioner of railroads created by general appropriation act approved March 3, 1881; and that those reports set forth the transactions, doings, and acts performed by the defendant railroad company under the terms of the act of Congress of July 27, 1866, and March 3, 1871, making grants to Southern Pacific Railroad Company; that said reports set forth the names of stockholders and boards of directors, amounts of capital stock and statement of all contracts, consolidations, and agreements entered into with other corporations, companies, and persons, and substantially as stated in the testimony of Jo-

seph L. Willcutt given in this case on September 28th, 1893, before Special Examiner in Chancery Potter, and that such reports were received by the secretary of the interior, the auditor of railroad accounts and commissioner of railroads of the United States, respectively, and were filed in the interior department; and the matters contained in such reports were duly reported by the auditor of railroad accounts and commissioner of railroads to the secretary of the interior, in their printed and published reports, as required by law. As no controversy is made in regard to this matter, and as I deem the matter entirely irrelevant and immaterial to the issues in this case, I have made a record of this admission in order to remove any excuse or ground for encumbering the record with documentary and other evidence to establish such facts, which, as I am informed, may amount to several thousand pages.

Mr. CALL.—In addition to the objections stated to the last question asked of the witness on September 30th, I make the following additional objections to said question. The question is objected to as irrelevant, immaterial, and incompetent, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3rd, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the

further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked "Master's Exhibits 1, 2 and 3," and "Defendants' Exhibit before the Special Examiner, Nos. 88 and 89," has surrendered to the United States all interests in these lands and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States land-office at Los Angeles, and the United States landoffice at San Francisco, and the records of the office of the secretary of state for California, and the public laws of the United States and of California, show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

Mr. CALL.—I will consent that certified copies may be made of all the letters offered in evidence on September 30th, 1893, which may stand in lieu of the originals, subject to the objections made to the originals, and that such

copies be certified in the usual manner by the Special Examiner.

Mr. REDDING.—Q. Have all these bonds been issued that are now outstanding prior to the year 1890, so far as your books show?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act, and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked "Master's Exhibits 1, 2 and 3," and "Defendants' Exhibits before the Special Examiner, Nos. 88 and 89," has surrendered to the United States all interest in these lands, and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad, and upon the further

ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustee, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco, and the records of the office of the secretary of state for California, and the public laws of the United States and of California, show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

A. To the best of my recollection without looking at my records.

Q. Have you ascertained from the records in this case and from the land department how much land is involved in this litigation?

(Same objection.)

A. Yes, sir.

Q. How many acres are there involved?

(Same objection.)

A. About 651,750 acres.

Q. From what sources have you obtained this information?

(Same objection.)

A. From the land department.

Q. How many acres of land, so far as the grant of March 3, 1871, is concerned, are included in these two clauses of the mortgage of 1875, marked "Defendants' Exhibit before the Special Examiner No. 90," which reads as follows: "And therefore, this indenture further

witnesseth that the said party of the first part, for the purpose of securing a payment of the sums of money mentioned in said bonds and the interest thereon, and in consideration of the premises, and also for and in consideration of the sum of one dollar to the said party of the first part in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed, confirmed, and by these presents does grant, bargain, sell, release, enfeoff, convey and confirm unto the said parties of the second part, as trustees, and to their successors and survivors, and their assigns forever, all and singular the said several sections of land so as aforesaid granted by said acts of Congress; and also all estate, right, title, interest, claim and demand whatsoever at law or in equity of, in or to the same or any part or parcel thereof, which the said party of the first part now has, holds, owns or is entitled to, or hereafter may or shall acquire, have, hold, own or be or become entitled to by force or virtue of the said acts of Congress."

(Same objection.)

Mr. CALL.—I do not see that that describes any land?

Mr. REDDING.—That is a matter of opinion.

A. 4,400,000 acres.

Q. Then what is the proportion of the indebtedness secured by this mortgage which would be borne by the lands involved in this suit?

(Same objection.)

A. About one-sixth.

Q. Do the books of your company and do these mort-

gages show that the lands in controversy have been included as an asset for the payment of this mortgage?

(Same objection.)

A. They do.

Q. Do the representations made by the Southern Pacific Railroad Company to the purchasers and holders of these bonds and to the mortgagees under this mortgage show that the lands in controversy in this suit were included as a portion of the assets upon which to pay the indebtedness created by this mortgage and these bonds?

(Same objection.)

A. Yes, sir.

Q. Have you, as secretary of the Southern Pacific Railroad Company, made these representations to the purchasers of these bonds?

(Same objection.)

A. I personally have had no negotiations with parties for the purchase of them.

Q. Do you know whether the Southern Pacific Railroad Company has made these representations?

(Same objection.)

A. It has.

Q. What has been done with the money received by the sale of these bonds—that is to say, so far as the Southern Pacific Railroad Company shows upon the books of the secretary, what application of these funds has been made?

(Same objection.)

A. Paying the indebtedness of the company in various ways.

Q. Does that include the payment for the work of construction?

(Same objection.)

A. The most of the construction has been paid for in bonds.

Q. Does your term, "the indebtedness of the company," include all forms and kinds of indebtedness that the company is put to in the transaction of its business?

(Same objection.)

A. It does.

Q. Do you know that the Southern Pacific Railroad Company has received the money or its equivalent for the bonds issued and the bonds now outstanding?

(Same objection.)

Mr. CALL.—The witness has just stated that the bonds were issued for construction.

Mr. REDDING.—Yes, I understand that.

The WITNESS.—That is, a large portion of the bonds were; there have been some few that were sold for cash, but not to any great extent.

A. The Southern Pacific Railroad Company has not been interested in the proceeds of the bonds; the bonds were issued to the Pacific Improvement Company, and the sales have been made by the Pacific Improvement Company; the larger portion of the bonds; so far as sales have been made by the company direct it has received the money for the sales of bonds which have been actually made by the company.

Mr. REDDING.—Defendants offer in evidence a certified copy of a deed of trust, dated August 25th, 1888, be-

tween the Southern Pacific Railroad Company of the first part, the Southern Pacific Company of the second part, and the Central Trust Company of New York of the third part, and ask that the same be marked "Defendants' Exhibit before the Special Examiner No. 91," and that the special examiner make a certified copy of this certified copy in lieu of the one now offered in accordance with our stipulation upon these matters.

(Objected to by Mr. Call as incompetent, immaterial, and irrelevant and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3rd, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked "Master's Exhibits 1, 2 and 3," and "Defendants' Exhibits before the Special Examiner, Nos. 88 and 89," has surrendered to the United States all interests in these lands,

and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of state for California and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands; and upon the further ground that the pretended mortgage or deed of trust referred to does not purport to cover any of the lands in suit herein, and upon the further ground that the said pretended mortgage or deed of trust is null and void and of no effect, so far as it is pretended that it covers or includes any of the lands in suit herein, for that there is no description given of any lands, or any reference made to any other instrument for any such description, and upon the further ground that the Central Trust Company is a corporation, organized under the laws of the State of New York, as appears from said pretended deed of trust or mortgage, and is a nonresident of the State of California and of the Southern District of California, and is not a party defendant in this suit, and upon the further ground that said Central Trust Company has no interest in the subject matter of this suit.)

(Certified copy of deed of trust dated August 25th, 1888, between the Southern Pacific Railroad Company of the first part, the Southern Pacific Company of the second part, and Central Trust Company of New York of the third part, is marked by the special examiner, "Defendants' Exhibit before the Special Examiner No. 91, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.

Q. State what your mortgage of 1888 as evidenced by the last exhibit purports to cover?

(Same objection.)

A. A first mortgage upon certain new lines as therein described, and a second mortgage upon the old lines and all the lands that have been granted to the company under its various land grants.

Q. Do you know whether or not, as a matter of fact, the intention of the Southern Pacific Railroad Company in executing this mortgage was to secure a second mortgage upon the land grant to it of March 3, 1871?

(Same objection.)

A. It was.

Q. What do you mean by a first mortgage upon new lines as distinguished from the old lines?

(Same objection.)

A. Lines that were not in existence at the time of the making of the mortgage of 1875. Lines which have since been laid out and built.

Q. From the books of the Southern Pacific Railroad Company, what do you ascertain to be the amount of out-

standing bonds negotiated under this second mortgage of August, 1888?

(Same objection.)

A. $12,932,000.

Q. Is that the amount outstanding or the amount of issuance?

(Same objection.)

A. Both; there have been no redemptions.

Q. Referring to Exhibit No. 90, otherwise known as trust mortgage of 1875, will you state whether or not the Southern Pacific Railroad Company, mentioned in the second line of the first page of said mortgage, and mentioned throughout said mortgage, and finally mentioned on page 8, in the following language: "In witness whereof, the said Southern Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal, and the above parties of the second part do hereunto set their hands and seals the day and year first above written.

CHARLES CROCKER,
President Southern Pacific Railroad Company.
[Corporate Seal
S. P. R. R. Co.] J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company."

is one of the defendants in this action, the Southern Pacific Railroad Company?

(Same objection.)

A. Yes, sir.

Q. Is the J. L. Willcutt mentioned in this mortgage as the secretary of the Southern Pacific Railroad Company yourself?

(Same objection.)

A. Yes, sir.

Q. Did you execute that mortgage yourself?

(Same objection.)

A. Yes, sir.

Q. Is that your signature attached thereto?

(Same objection.)

A. Attached to the original; yes, sir.

Q. Did you sign your name at that time and place?

(Same objection.)

A. Yes, sir.

Q. And attached the corporate seal of the railroad company thereto?

(Same objection.)

A. Yes, sir.

Q. Referring to Defendants' Exhibit No. 91, is the Southern Pacific Railroad Company mentioned on the first and second lines of the first page, and mentioned throughout said deed of trust, and particularly mentioned on page 12 in the following language: "In witness whereof the said Southern Pacific Railroad Company, party of the first part, has caused these presents to be signed in its

name, by its president, and attested by its secretary and sealed with its corporate seal.

SOUTHERN PACIFIC RAILROAD COMPANY,

By CHARLES F. CROCKER,

[Seal] President.

Attest: J. L. Willcutt, Secretary."

the Southern Pacific Railroad Company, one of the defendants in this action?

(Same objection.)

A. It is.

Q. Is that your signature attached to the original deed of trust?

(Same objection.)

A. It is.

Q. Did you sign the same yourself?

(Same objection.)

A. I did.

Q. Did you attach the seal of the company at that time?

(Same objection.)

A. I did.

Q. And witness the execution of the deed of trust by the Southern Pacific Railroad Company?

(Same objection.)

A. I did.

Q. In reference to the deed of trust of 1888, is the same proportion of the entire land grant of the Southern Pacific Railroad Company under the grant of March 3, 1871, mortgaged and given as security as a second mort-

gage, as you stated, was given first to secure a mortgage in reference to the trust mortgage of 1875?

(Same objection.)

A. It bears the same proportion.

Q. Has the Southern Pacific Railroad Company represented to the purchasers of the bonds under this deed of trust of 1888 that the lands in controversy were a part of the security mortgage for the purpose of securing the payment of the indebtedness created by said deed of trust?

(Same objection.)

A. It has.

Q. Do the reports sent by the Southern Pacific Railroad Company to the various officers of the Government herein mentioned include a statement of the execution of these various mortgages?

(Same objection.)

A. They do.

Q. What information, if at all, and in what manner has the Southern Pacific Railroad Company informed the various officers of the Government of the existence of these mortgages, amounts thereof and the nature thereof?

(Same objection.)

A. In their various annual and semi-annual reports.

Q. Do those reports set forth in detail a true statement of the nature and extent of the Exhibits 90 and 91?

(Same objection.)

A. They do.

Q. Has the Government been fully advised by the

Southern Pacific Railroad Company of these mortgages and deeds of trust?

(Same objection.)

A. It has.

Q. And at the time they were created and issued?

(Same objection.)

A. Yes, sir; that is, they are included in the first reports following the execution of the mortgages and deeds of trust.

Mr. REDDING.—That is all. I may recall Mr. Willcutt for the purpose of getting some testimony from his department in connection with the treasury department, but this is my direct testimony from him at the present time.

Cross-Examination.

Mr. CALL.—Q. When you stated that you understood that the Southern Pacific Railroad Company, which is defendant in this suit, was the same corporation that the grant was made to, by the act of Congress of March 3, 1871, did you have in mind the consolidations made by the original Southern Pacific Railroad Company in 1870, 1873, 1874, 1888?

(Question objected to by Mr. Redding as immaterial and irrelevant; it is immaterial for the reason that Congress made a grant of lands to the Southern Pacific Railroad Company in 1866, on July 27th, of that year; that in 1870 the Southern Pacific Railroad Company entered into articles of amalgamation and consolidation which are introduced by the Government in this case and marked

"Examiners' Exhibit No. 3," and in 1871, on March 3rd, of that year, the Government of the United States, by its Congress, made a second grant to the Southern Pacific Railroad Company, which is the grant in controversy. That this latter grant, known as the branch line grant, was made subsequent to the amalgamation and consolidation last referred to, and that Congress at the time of making this latter grant, namely, of March 3, 1871, had full knowledge of the said amalgamation and consolidation, and full knowledge of the method of the Southern Pacific Railroad Company in entering into the articles of amalgamation and consolidation of 1870, heretofore referred to and introduced by the Government in this case and marked "Examiner's Exhibit No. 3"; that the articles of amalgamation and consolidation of the Southern Pacific Railroad Company subsequent to March 3, 1871, and subsequent to the said articles of amalgamation and consolidation of 1870, are identical in terms and conditions and procedure, and with which the said Government of the United States, the complainant in this suit, were informed and familiar; that, therefore, the complainant in this action is estopped from denying the validity of the articles of consolidation and amalgamation entered into between the Southern Pacific Railroad Company and other railroad companies, as herein set forth and introduced; that the Government of the United States, the complainant herein, has recognized the Southern Pacific Railroad Company as it has existed from December, 1865, the date of its incorporation, down to and including the present time, and particularly the commencement of this suit, and has

been fully informed of every contract, article, or articles, and all acts of said Southern Pacific Railroad Company entered into of all kinds and nature, and has approved the same and endorsed the same, and furthermore the act of Congress of July 27th, 1866, making the main line grant, and the act of Congress of March 3, 1871, making the branch line grant from a point at or near Tehachapi Pass, by the way of Los Angeles, to a point on the Colorado river, near Fort Yuma, which latter grant is the one in controversy, was made in direct terms to the Southern Pacific Railroad Company, its successors or assigns; that for the above reasons the question is immaterial and irrelevant.

A. Yes, sir.

Q. Then I infer from your answer that your view is that the Southern Pacific Railroad Company organized in 1865 still exists, notwithstanding the consolidations referred to?

(Same objection.)

A. That is my understanding and my view of it.

Q. And it is then your view that it is the same corporation and same individuality that was organized in 1865?

(Same objection.)

A. It has been treated as such throughout in our relations with the Government, in our accounts and in our entire business.

Q. I assume from your answers that you are familiar with the terms and conditions of the consolidations referred to?

(Same objection.)

A. Yes, sir.

Q. You are then probably familiar in point of fact with the laws of this State in reference to consolidations and the effect of such consolidations?

(Same objection.)

A. I am.

Q. Do your records in your possession show the proceedings of the stockholders and board of directors of the consolidating companies in reference to such consolidations?

(Same objection.)

A. They do.

Mr. CALL.—I will ask you to produce the record containing the proceedings upon consolidation, commencing in 1873, and including that of 1874?

(Same objection.)

The WITNESS.—I might ask, if you wish the minutes of the Southern Pacific Railroad Company only, or that of the various roads consolidated with the Southern Pacific Railroad Company.

Mr. CALL.—Q. Commencing with the consolidation of 1873, did you keep separate records prior to that time for the Southern Pacific Railroad Company and the Southern Pacific Branch Railroad Company?

(Same objection.)

A. Yes, sir.

Q. And after that date, did you keep a record of the Southern Pacific Branch Railroad Company?

(Same objection.)

A. None whatever.

Q. And in the consolidation of 1874, did you keep a record of those amalgamating and consolidating companies up to the time of consolidation separately?

(Same objection.)

A. Yes, sir.

Q. And after that date did you keep any records of any of the companies other than a record of the Southern Pacific Railroad Company?

(Same objection.)

A. No, sir.

Mr. CALL.—I ask you to produce the record of the Southern Pacific Railroad Company, commencing with 1873 and including the year 1874?

(Same objection.)

(A recess was then taken by consent of counsel until 2 P. M.)

San Francisco, October 2d, 1893, 2 P. M.

Cross-Examination of J. L. WILLCUTT (resumed).

Mr. CALL.—Q. Have you produced the record requested?

A. Yes, sir. (Producing.)

Q. When you were referring to the Southern Pacific Railroad Company organized in 1865, being the same corporation that is defendant here, during all that time did you have in mind the records of your company in reference to the construction of the railroad from Tehachapi, by way of Los Angeles, to the Colorado river, as to what corporation constructed that road?

(Same objection.)

A. Yes, sir.

Q. Did you consider that the Southern Pacific Railroad Company organized in 1865 constructed that railroad?

(Same objection.)

A. Yes, sir.

Q. Do the records of your office show what was done in that respect, and what corporation did it?

(Same objection.)

A. There is but one corporation shown here in my records.

Q. Do the records show what was done, and how it was done?

(Same objection.)

A. Yes, sir.

Mr. REDDING.—Mr. Call, I understand that where the words "same objection" are used, it is the equivalent of repeating in full the last stated objection?

Mr. CALL.—I understand that that is understood all during the trial of this case before the special examiner.

Q. Do the records of your office show as to the manner of constructing the railroad from Tehachapi, by way of Los Angeles, to the Colorado river, that is, as to how the contract work was let and when it was approved?

(Same objection.)

A. Yes, sir.

Q. Will you please produce the record showing those matters referred to, or is it all contained in this book?

(Same objection.)

A. It is contained in this book.

Q. Referring to the construction of the railroad from Tehachapi, by way of Los Angeles, to Colorado river, was that road constructed direct by the Southern Pacific Railroad Company, or was it by contract with the Pacific Improvement Company, or some other company?

(Same objection.)

A. Under contract with another company.

Q. What company?

(Same objection.)

A. I find that it was the Pacific Improvement Company.

Q. Was the Pacific Improvement Company paid for constructing that railroad in cash or in bonds and stock?

(Same objection.)

A. In bonds and stock.

Q. How much did they receive per mile?

(Same objection.)

A. $25,000 per mile in bonds and $30,000 per mile in stock.

Q. Altogether?

(Same objection.)

A. $55,000 per mile.

Q. At the par value of the stock and bonds?

(Same objection.)

A. Yes, sir.

Q. How many miles is it from Mojave, by way of Los Angeles, to the Colorado river at Yuma?

(Same objection.)

A. 242.507-1000 miles.

Q. These stocks and bonds were stocks and bonds of the Southern Pacific Railroad Company, were they?

(Same objection.)

A. Yes, sir.

Q. Making altogether how much in bonds for the building of that line?

(Same objection.)

A. $6,062,500, or thereabouts in bonds.

Q. Were bonds also issued to the Pacific Improvement Company for constructing the other branch lines of road mentioned in the mortgage to D. O. Mills and Lloyd Tevis?

(Same objection.)

A. Yes, sir; bonds were issued under different contracts, either with the Pacific Improvement Company, the Western Development Company, or the Contract and Finance Company; there were contracts with all of those companies.

Q. One of those three companies built all the roads, taking their pay in bonds and stock?

(Same objection.)

A. Yes, sir.

Mr. CALL.—From the record produced by the witness, marked on the back "Record Southern Pacific R. R. Co., A," I offer the following parts of the record referred to: Pages 117 to 132, inclusive, excepting the duplicate copy of articles as proposed, and as adopted, which will be omitted.

(Same objection.)

Mr. CALL.—By consent, in lieu of copying the articles of consolidation of 1873, as they appear in the original record, as now being offered, it is agreed that the articles of consolidation of that date heretofore offered, and marked "Exhibit ——," shall stand in lieu thereof. Is that satisfactory to you?

Mr. REDDING.—That is satisfactory to me, with the same objection to its competency, relevancy and materiality.

Mr. CALL.—I also offer in evidence pages 136 and 137.

(Same objection.)

Also pages 145, 146.

(Same objection.)

Mr. CALL.—Also page 147.

(Same objection.)

Mr. CALL.—I also offer in evidence page 148.

(Same objection.)

Mr. CALL.—Also pages 151, 152, 153, 154, 155, 156, 157 and 158, omitting the articles of consolidation of 1874.

(Same objection.)

Mr. CALL.—Mr. Redding, is it admitted that the articles of 1874, marked "Master's Exhibit ——," shall stand in lieu of the excerpt from the record, without the necessity of copying again the articles set forth herein.

Mr. REDDING.—Yes, sir; subject to the same objections heretofore made.

Mr. CALL.—I also offer pages 159, 160, 161, and 162 to 166, inclusive.

(Same objection.)

TRANSCRIPT OF RECORD.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 190.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,

vs.

THE UNITED STATES OF AMERICA,
Appellees.

VOL. III.

(Pages 1025 to 1476, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Filmer Brothers Co. Print, 424 Sansome St., S. F.

Mr. CALL.—Also pages 196 to 202, inclusive.

(Same objection.)

Mr. CALL.—Also pages 215 to 219, inclusive.

(Same objection.)

Mr. CALL.—Also the heading of the meeting at page 220, and the matter contained on page 222.

(Same objection.)

Mr. CALL.—Also the heading of the meeting commencing at page 230, and omitting from there to page 231, commencing on page 231 with the following language: "The following preamble and resolutions," the balance of page 231, 232, and the first line on 233, and the signature of the secretary on page 234.

(Same objection.)

Mr. CALL.—Also page 245, and the first seven lines on page 246, and that part of 247 commencing with the words, "The following resolution was offered," and ending at the bottom of said page.

(Same objection.)

Mr. CALL.—Also pages 259, 260, 261, 262, 263, 276, and that part of 277 ending with the words "a proper receipt therefor," near the bottom of page 287, pages 288, 289, 290, excepting the letter pasted on that page, the first two lines of 291, 292.

(Same objection.)

Mr. CALL.—Also pages 301 to 304, inclusive.

(Same objection.)

Mr. CALL.—Also pages 309 to 311, inclusive, 312 and 313.

(Same objection.)

Mr. CALL.—The heading at page 457, and then omit down to the seventh line from the bottom on page 458, and including the last six lines on page 458, page 459, the heading of the meeting on page 460, and the first resolution on 462, omitting what occurs between.

(Same objection.)

Mr. CALL.—Also page 474, and ending on page 475.

(Same objection.)

Mr. CALL.—The heading on page 476, and that part of page 479, commencing with the words "the following resolution was offered," and ending with "J. L. Willcutt, secretary."

(Same objection.)

Mr. CALL.—The heading on page 480, and that part of 481 commencing with the words, "the following resolution was offered by Charles Mayne," and ending with the words "taking a proper voucher therefor," and comprising seventeen lines.

(Same objection.)

Mr. CALL.—Also the heading of the meeting on page 486, omitting until the following words are reached on page 490, "the following resolution was offered by Charles Mayne," and including the balance of 490, excepting the last three lines; also the signature of J. L. Willcutt, secretary, on page 491.

(Same objection.)

Mr. CALL.—Also the heading on page 492 and the last half of page 493, commencing with the words "the following resolution was offered," and ending with the first three lines of page 494.

(Same objection.)

Mr. CALL.—Also the heading of page 495 and the first resolution on page 497, taking half of the page.

(Same objection.)

Mr. CALL.—Also the heading of the meeting on page 500, and the resolution contained on the bottom half of page 501, and ending on page 502.

(Same objection.)

Mr. CALL.—Also the heading on page 503 and the last half of page 504, commencing with the words, "the following resolution was offered," and ending with the first three lines on page 505; also the signature of the secretary on the same page.

(Same objection.)

Mr. CALL.—The heading of 504 and the resolution at bottom of page 515, commencing with the words "on motion of N. T. Smith," and ending on page 516 with the words "on open account"; also the signature of the secretary on page 518.

(Same objection.)

Mr. CALL.—I will ask the special examiner to make copies of this portion of this record which I have offered, and to file it in evidence in the case as "Exhibit before the Special Examiner L"; and would it be satisfactory for him to do so, to be taken with the same effect as the original, subject to the same objections?

Mr. REDDING.—Yes, sir; satisfactory, provided it is understood that my objections run to each excerpt taken throughout the entire series of pages on the ground of incompetency, immateriality and irrelevancy, as heretofore set forth.

Mr. CALL.—Q. Referring to your testimony on direct examination that representations were made by the Southern Pacific Railroad Company to purchasers of bonds, or proposed purchasers of bonds, that the company represented to such purchasers that the mortgage of 1875 to Mills and Tevis, trustees, covered the lands in suit, I ask you to state how such representations were made and by whom.

A. The mortgage, I understand, covers all those lands, and from information which I have been called upon to furnish the New York office from time to time, I assume those representations were made to the purchasers of the bonds.

Q. Did you personally make such representations yourself? A. No, sir.

Q. Were such representations made in your presence by any authorized officer of the company to any proposed purchaser? A. No, sir.

Q. In assuming that the mortgage covered the lands in suit, are you familiar with the terms and conditions of the mortgage?

The WITNESS.—As expressed therein?

Mr. CALL.—Q. Are you aware that the mortgage states in substance that it covers lands granted to the Southern Pacific Railroad Company, are you not?

(Question objected to by Mr. Redding as being misleading and not the best evidence; the mortgage itself sets forth what it pretends to cover in the shape of security.)

Mr. CALL.—I want to get the source of information of the witness. A. Yes, sir.

Mr. CALL.—Q. And you are then aware that the mortgage does not describe any particular tracts of land in terms?

A. There are no particular tracts described, but reference is made on page 1 of the mortgage to the fact that the Southern Pacific Railroad Company is about to issue its first mortgage bonds for the said railroad and telegraph line, and its rolling stock, fixtures, and franchises, and also upon the lands granted to it by Congress by the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved July 27, 1866, and the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, not sold or otherwise disposed of prior to the execution of this mortgage, and upon page 6 the expression that this mortgage covers "all and singular the said several sections of land so as aforesaid granted by said acts of Congress; and also all the estate, right, title, interest, claim, and demand whatsoever, at law or in equity, of, in, or to the same, or any part or parcel thereof, which the said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, hold, own, or be or become entitled to by force or virtue of the said acts of Congress; saving, excepting, and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the said railroads and telegraph

lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings, or erections thereon."

Q. Are you familiar with the terms and conditions of the acts of Congress therein referred to?

(Question objected to by Mr. Redding as immaterial, irrelevant, and incompetent, and calling for the opinion of the witness.)

A. Only in a general way.

Q. When you stated that you assumed that the mortgage covered lands in suit, did you or did you not assume that the lands were covered by the grants or acts of Congress referred to?

A. I assumed that they were; I understood that they were.

Q. Were you aware that the acts of Congress referred to did not grant to the Southern Pacific Railroad Company lands which had been previously granted and also lands which had been reserved for any purpose?

(Same objection.)

A. Yes, sir.

Q. Has there been any consolidation of the Southern Pacific Railroad Company with other railroad companies since that made in 1888? A. No, sir.

Redirect Examination.

Mr. REDDING.—Have you obtained from Mr. Lansing the letter of acknowledgment from the office of commissioner of railroads, showing the receipt by the depart-

ment of the interior of the reports of the Southern Pacific Railroad Company for the years of 1889, 1890, 1891, 1892, and 1893? A. I have.

Mr. REDDING.—Defendants offer in evidence letters from the department of the interior, office of commissioner of railroads, addressed to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, dated respectively October 24, 1889, October 21, 1890, October 21, 1891, September 28, 1892, and September 16, 1893, and ask that they be marked "Defendants' Exhibits before the Special Examiner Nos. 92, 93, 94, 95, and 96."

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, October 24, 1889, signed W. M. Thompson, in charge of office, addressed to G. L. Lansing, Esq., controller Southern Pacific Co., is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 92, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated October 21, 1890, signed W. M. Thompson, in charge of office, addressed to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 93, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, October 21, 1891, signed W. M. Thompson, bookkeeper, addressed

to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 94, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, September 28, 1892, signed W. M. Thompson, bookkeeper, addressed to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 95, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, September 16, 1893, signed F. E. Storm, bookkeeper, addressed G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 96, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

J. L. WILLCUTT.

(An adjournment was then taken, by consent of counsel, until Tuesday, October 3, 1893, at 1 P. M.)

Defendants' Exhibit Before the Special Examiner No. 65.

Department of the Interior.

Washington, D. C., April 3, 1871.

Sir: The map received with your letter of the 22nd ultimo, showing the route of the Southern Pacific Rail-

road "from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river," has been sent to the commissioner of the general landoffice, with directions to withdraw the lands as provided in the 12th section of the act to incorporate said Texas Pacific Railroad, approved March 3, 1871.

Very respectfully,

Your Obt. Servant,

WALTER H. SMITH,

Acting Secretary.

Charles Crocker, Esq., Pres. Southern Pac. R. R. Co., 54 William St., N. Y.

[Endorsed]: Walter H. Smith, Acting Secretary.

Washington, April 3, 1871.

Map sent to commissioner with directions to withdraw certain lands.

(Marked "Defendants' Exhibit before the Special Examiner No. 65, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 66.

Pac. R. R.

Department of the Interior.

Washington, D. C., August 5, 1868.

Sir: I invite your attention to an act entitled "An act relative to filing reports of railroad companies," approved June 25, 1868.

It will be perceived that the reports required by the act of July 1, 1862, and the acts amendatory thereof, to be made to the secretary of the treasury, are hereafter to be made to the secretary of the interior, "on or before the first day of October of each year."

Very respectfully,

Your Obt. Servant,

O. H. BROWNING,

Secretary.

President of the Southern Pacific R. R. Co., San Francisco, Cal.

(Enclosure.)

(Public—No. 51.)

An act relative to filing reports of railroad companies:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the reports required to be made to the secretary of the treasury on or before the first day of July of each year, by the corporations created by or entitled to subsidies under the provisions of an act entitled "An act to aid in the construction of a railroad and telegraph line

from the Missouri river to the Pacific Ocean, and to secure to the Government the use of the same for postal, military and other purposes," approved July first, eighteen hundred and sixty-two, and the acts supplemental to and amendatory thereof, shall hereafter be made to the secretary of the interior, on or before the first day of October of each year. Said reports shall furnish full and specific information upon the several points mentioned in the twentieth section of the said act of eighteen hundred and sixty-two, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirements of this act shall be complied with by such company. And the reports hitherto made to the secretary of the treasury under the said act of July first eighteen hundred and sixty-two, shall be transferred and delivered by him to the secretary of the interior to be filed by him.

Sec. 2. And be it further enacted, that the corporations created by the provisions of the acts of Congress approved July second, eighteen hundred and sixty-four, and July twenty-seventh, eighteen hundred and sixty-six, and known as the Northern Pacific Railroad Company, the Atlantic and Pacific Railroad Company, and the Southern Pacific Railroad Company, shall make reports to the secretary of the interior on or before the first of October of each year, as are required to be made by the Union Pacific Railroad and branches, under the provisions of the first section of this act, and on failure to do so, shall be subject to the like suspension.

Sec. 3. And be it further enacted, that the reports required from the commissioners appointed to examine and report in relation to the road of any of the corporations, whereto reference is made in this act, shall be addressed to and filed in the department of the interior; and all such reports heretofore made shall be transferred to and filed in said department of the interior; and so much of any and all acts as requires any reports from such companies, or any officers thereof, to be made to the secretary of the treasury, is hereby repealed.

Sec. 4. And be it further enacted, that, in addition to the eight subjects referred to, in section twenty of the act of July, eighteen hundred and sixty-two, to be reported upon, there shall also be furnished annually to the secretary of the interior all reports of engineers, superintendents, or other officers who make annual reports to any of said railroad companies.

Approved June 25, 1868. U. S. Statutes, chapter LXXVII; page 79, chapter CXX, page 498, sec. 20.

(Marked "Defendants' Exhibit before the Special Examiner No. 66, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 66. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 67.

Pac. R. R.

Department of the Interior.

Washington, D. C., September 26, 1868.

Sir: Please furnish the secretary of the interior before the 15th proximo a report of the progress and condition of your road, to be used in the preparation of his annual report to the President.

Very respectfully,

Your Obt. Servant,

W. T. OTTO,

Acting Secretary.

T. G. Phelps, Esq., Pres. Southern Pac. R. R. Co., San Mateo, California.

(Marked "Defendants' Exhibit before the Special Examiner No. 67, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 67. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 68.

Pac. Lgt. R. R.

Department of the Interior.

Washington, D. C., August 31, 1870.

Sir: The act approved June 25, 1868, requires the annual report of your company to be filed in this department on or before the first day of October of each year.

It is desired to have the reports of the different companies brought up to the same date, the 30th June, the end of the fiscal year.

You are requested to have the report of your company for the past year brought up to that date, and filed on or before the 1st October next.

Very respectfully,

Your Obt. Servant,

J. D. COX,

Secretary.

Lloyd Tevis, Esq., Pres. Southern Pac. R. R. Co., San Francisco, Cal.

(Marked "Defendants' Exhibit before the Special Examiner No. 68. Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 68. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 69.

Z. B. S.

Department of the Interior.

Office of the Secretary.

Washington, D. C., 1st Sept., 1876.

Sir: I inclose herewith a printed circular, issued by this department 26 Oct., 1872, concerning the annual reports of railroad companies, which the law requires to be filed in this department.

I desire that in making up the annual report of your company you will see that it conforms in every respect to the requirements of this circular, and that it be furnished to the department on or before the 1st proximo.

Very respectfully,

Z. CHANDLER,

Secretary.

Chas. Crocker, Esq., Pres. Southern Pac. R. R. Co., 9 Nassau St., New York.

[Endorsed]: Hon. Z. Chandler, Secy. of the Interior, to Chas. Crocker, Prest. S. P. R. R. Co. Annual report of Co. to Secy. of Int.

(Enclosure.)

Department of the Interior.

Washington, D. C., October 26, 1872.

Gentlemen: The following-named railroad companies are required by the 20th section of the act of 1st July, 1862 (12 Statutes, 498), to make annual reports to the secretary of the interior under certain specified heads: The Union Pacific, Central Pacific, Western Pacific (now

consolidated with Central Pacific), Central Branch Union Pacific, Denver Pacific, Sioux City and Pacific, and Kansas Pacific, and the act of 25th June, 1868 (15 Statutes, 79), requires such reports from the Northern Pacific, Southern Pacific, and the Atlantic and Pacific Railroad Companies.

These reports are required by said 20th section to show:

"First. The names of the stockholders and their places of residence, so far as the same can be ascertained;

"Second. The names and residences of the directors, and all other officers of the company;

"Third. The amount of stock subscribed, and the amount thereof actually paid in;

"Fourth. A description of the lines of road surveyed, of the lines thereof fixed upon for the construction of the road, and the cost of such surveys;

"Fifth. The amount received from passengers on the road;

"Sixth. The amount received for freight thereon;

"Seventh. A statement of the expense of said road and its fixtures; total and annual;

"Eighth. A statement of the indebtedness of said company, setting forth the various kinds thereof."

Which report will be sworn to by the president of said company.

There is also required from the Atlantic and Pacific Company, by the 13th section of the act of 27th July, 1866 (14 Statutes, 297), "An annual report of their proceedings and expenditures, verified by the affidavits of the presi-

dent and at least six of the directors, a copy of which shall be deposited in the office of (the) secretary of the interior." The fourth section of the act of 25th June, 1868 (15 Statutes, 79), also requires "That in addition to the eight subjects referred to in section twenty of the act of July, eighteen hundred and sixty-two, to be reported upon, there shall also be furnished annually to the secretary of the interior *all reports of engineers, superintendents or other officers who make annual reports to any of said railroad companies.*"

The first section of the said act of 25th June, 1868, requires the reports of the above-mentioned companies "to be made to the secretary of the interior on or before the first day of October of each year," and that they "shall furnish full and specific information upon the several points mentioned in the twentieth section of the said act of 1862, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirement of this act shall be complied with by such company." The thirteenth section of the act of 3d March, 1871 (16 Statutes, 577), requires a sworn report to be made by the Texas and Pacific R. R. Co. to the secretary of the interior "by the first day of July" of each year. Said section requires this report to exhibit "the financial situation of the company, the amount of money received and expended, and the number of miles of road constructed each year; and, further, the names and residences of the stockholders, of the directors, and of all other officers of the company; the amount

of stock subscribed, and the amount thereof actually paid in, a description of the lines of road surveyed and fixed upon for construction, the amount received from passengers and for freight, respectively, on the road, a statement of the expenses of said road and its fixtures, and a true statement of the indebtedness of said company, and the various kinds thereof."

The number of shares of stock held by each director should be given.

R. B. COWEN,
Acting Secretary.

To Presidents of Railroad Companies:

If no such reports are made to the company, it should be so stated in your report.

[Endorsed]: Requirements by department of the interior. Sept. 1, 1876.

(Marked "Defendants' Exhibit before the Special Examiner No. 69, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 69. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 70.

Requirements from Department of the Interior.

Office of Auditor of Railroad Accounts,
Washington, D. C., July 13, 1878.

Sir: I have the honor to transmit herewith a copy of the act of Congress entitled, "An act to create an auditor of railroad accounts and for other purposes," approved June 19, 1878, and to call your attention to the requirements of the same.

Under the provisions of this act, I hereby respectfully request that you direct the secretary of your company to furnish this office, by return mail, with the names and residences of all the officers and directors of the company, as of date July 1, 1878, and with the business address of the company.

I have further to request that you direct all the officers of your company, in compliance with the requirements of law, to render to this office all information and reports that I may require from time to time, to submit the books and records of the company to my inspection, or that of any person acting in my place or stead, and to furnish transportation over your road for myself or any person acting under my direction, without expense to the United States.

I will thank you also for copies of the full series of your printed reports to stockholders, including that for last year.

I have the honor further to request that this office be furnished, by return mail, or as soon thereafter as possible, with copies of all schedules of "through" and "way"

passenger and freight tariffs, or rates in force on the 1st instant, and of such others as have been in force during the year ending June 30, 1878; also of all joint schedules of passenger and freight tariffs agreed upon between your company and other railroad companies, and in force during the same periods; and of all contracts for special rates that have been made by your company with any person, firm, or corporation during the same preiod.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific Railroad Company, San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., July 22d, 1878.

Sir: Thirty blanks of form No. 1 issued by this office have been forwarded to you by this mail.

I will thank you to have the same filled up to show the condition of the general ledger of your company at the periods following, viz.:

First. On June 30, 1877, after the transfer of balance to "income account" or "profit and loss" account.

Second. On December 31, 1877, before transfer of balances to "income account," if such transfers are made semiannually.

Third. On June 30, 1878, before transfer of balances to "income account."

Fourth. On July 1, 1878, after the transfers, but before any new entries have been made.

Fifth. On July 31, August 31, etc. 1878, monthly hereafter.

The columns without headings are not to be written upon, as they are intended for use in this office.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
Prest. Southern Pac. R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 26, 1878.

Sir: I have the honor to request that this office be furnished, as early as possible, with copies of all contracts or agreements made by your company with any telegraph company, sleeping-car company, express company, or fast freight line or transportation company, and which are still in force.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 29, 1878.

Sir: I have the honor to request that this office be fur-

nished, by return mail, with a copy of your by-laws as now in force, and a list of committees as at present composed.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., August 1, 1878.

Sir: I have the honor to refer you to my letters dated, respectively, July 13, 22, 24, 26, and 29, 1878, to none of which have I received a reply to this date, and to enclose again copy of the act of Congress, No. 121, approved June 19, 1878.

By this mail, fifty blanks of form No. 2 of this office have been forwarded to you, upon which I will thank you to direct the auditor or other proper officer of your company to make reports for six months, respectively ending June 30, 1877, December 31, 1877, and June 30, 1878, by divisions as separated in your accounts, and by the same divisions monthly hereafter commencing with July 31, 1878.

In this connection, I have further to state that, as one month has already elapsed without compliance on the part of your company with the requirements of this office made in pursuance of and under the law, I hereby respectfully give notice that, unless compliance with each and every requirement heretofore and hereby again requested

is made within 30 (thirty) days from this date, proceedings will be commenced to collect the penalties under section 5 of the act approved June 19, 1878.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., August 27, 1878.

Sir: By this mail 50 blanks of form No. 4 have been forwarded to you, upon which I will thank you to direct the auditor or other proper officer of your company to make reports for the periods of six months respectively ending June 30, 1877, December 31, 1877, and June 30, 1878, by divisions as separated in your accounts, and by the same divisions monthly thereafter, commencing with July 31, 1878.

This information is desired specifically as requested, if the method of keeping your accounts will so permit; if not, as near thereto as possible.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pac. R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., Sept. 3, 1878.

Sir: I have the honor to inform you that to-day I have mailed to your address 5 blanks, sheet 1; 5 blanks, sheet 2; and 20 blanks, sheet 3—all of form No. 3, issued by this office, and to request that report for June 30, 1878, be made upon these forms to this office at as early a day as possible; and hereafter, on the 30th of September, 31st of December, etc., quarterly, excepting that required on sheet No. 3, which need only be made at such times as the transfer books of the company are closed prior to an election by or vote of stockholders, or prior to the payment of a dividend.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

P. S. If, at the end of a quarter, no change has occurred on sheets 1 and 2 since the previous report, notification of that fact will be sufficient.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., Sept. 9, 1878.

Sir: Referring to my letter of the 27th ultimo, at which time blanks of form No. 4 were forwarded, I will thank you to have the reports made on one-half of the sheets

to show northward traffic and on the other half to show southward traffic, if it is possible to so do.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., Sept. 20, 1878.

Sir: Forty blanks of each sheet Nos. 1, 2, 3, and 4 of form No. 5 of this office have been forwarded to you by this mail.

I have to request that report be made upon them for the periods following, viz.:

1. Six months ending June 30, 1877;

2. Six months ending December 31, 1877;

3. Six months ending June 30, 1878—and a monthly report thereafter, commencing with that for July 31, 1878.

As in form No. 2 of this office, it is requested that these reports be made by divisions as separated in your accounts, and, in addition thereto, for each branch and leased road separately.

If the method of keeping your accounts will permit this information to be furnished specifically as requested,

it is so desired, but, if not, then as near thereto as possible.

Very respectfully,

THEOS. FRENCH,
Auditor.

S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., Sept. 27, 1878.

Sir: Ten blanks of form No. 6, issued by this office, are herewith enclosed.

I have to request that reports on these blanks be forwarded to this office for the period following, viz.:

1. For the six months ending June 30, 1877;
2. For the six months ending December 31, 1877;
3. For the six months ending June 30, 1878—and monthly thereafter, on July 31, August 31, and so forth.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 1, 1878.

Sir: Six blanks of form No. 7, issued by this office, are herewith enclosed.

I have to request that reports be made upon this form for the periods following, viz.:

1. For the six months ending June 30, 1877;

2. For the six months ending December 31, 1877;

3. For the six months ending June 30, 1878—and semiannually thereafter, commencing with that for December 31, 1878.

In addition, I will thank you to report by items upon this form the total cost of construction and equipment for your road to the 30th of June, 1878, as it appears on the books of the company.

Very respectfully,
THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

P. S. If possible, please give also the cost of construction of land-grant portion of road.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 4, 1878.

Sir: Five blanks each of sheets 1, 2, 3, and 4 of form No. 8, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 7, 1878.

Sir: Five blanks form No. 9, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter, commencing with that for December 31, 1878.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 10, 1878.

Sir: Five blanks of form No. 10, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,
THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 12, 1878.

Sir: Five blanks of form No. 11, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 15, 1878.

Sir: Five blanks of form No. 12, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 16, 1878.

Sir: Five blanks of form No. 13, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,
THEOPHILUS FRENCH,
Auditor.
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 17, 1878.

Sir: Please find herewith enclosed five blanks of form No. 16, issued by this office.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months thereafter.

Very respectfully,

THEOPHILUS FRENCH,

Auditor,

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 19, 1878.

Sir: Five blanks each of sheets 1, 2, and 3, all of form No. 17, issued by this office, have been forwarded to your address by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOPHILUS FRENCH,

Auditor,

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 22, 1878.

Sir: Five blanks of form No. 18, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOPHILUS FRENCH,

Auditor,

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 24, 1878.

Sir: Five blanks of form No. 19, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending December 31, 1877;

Six months ending June 30, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

P. S. If the method of keeping your accounts will permit this information to be furnished specifically as requested, it is so desired; if not, then as near thereto as possible.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., April 17, 1879.

Sir: Herewith please find enclosed 25 blanks and 12 return envelopes, for monthly report of the earnings and expenses of your road from January, 1879, inclusive.

A change in the form of report for the year commencing July 1, 1879, is now being considered, with a view to make it less troublesome, to simplify it, and, if possible, to reduce it to the minimum of information required.

The design in asking for these statements of earnings and expenses is that the information furnished may be consolidated into a monthly official statement to be issued by this office.

For this reason, it is desirable that the blanks should be filled and forwarded to this office as soon as possible after the close of each month.

Very respectfully,

THEOS. FRENCH,
Auditor,
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., May 17, 1879.

Sir: Under the act of Congress approved June 19, 1878, requests have been made, from time to time, for reports to be rendered by your company to this office as follows, viz.:

July 13, 1878. Compliance with auditor's act.

July 13, 1878. Address of officers and directors.

July 13, 1878. Business address of company.

July 13, 1878. Information, inspection of books and right of way.

July 13, 1878. Copies of printed reports.

July 13, 1878. Freights, etc., schedules, copies of.

July 13, 1878. Copies of joint tariffs.

July 13, 1878. Special contracts.

July 29, 1878. By-laws and list of committees.

July 24, 1878. Land agent's report.

July 26, 1878. Contracts with telegraph and other companies.

July 22, 1878. Form 1, financial condition.

August 1, 1878. Form 2, revenue.

Sept. 3, 1878. Form 3, ownership and control.

August 27, 1878. Form 4, statistical—traffic.

Sept. 20, 1878. Form 5, operating and other expenses.

Sept. 27, 1878. Form 6, income expenses.

October 1, 1878. Form 7, cost of construction.

October 4, 1878. Form 8, statistical—employés, supplies, repairs, taxes, etc.

October 7, 1878. Form 9, statistical—accidents.

October 10, 1878. Form 10, statistical—funded debt.

October 12, 1878. Form 11, statistical—capital stock.

October 15, 1878. Form 12, statistical—roadway.

October 16, 1878. Form 13, statistical—locomotives.

1879, Feb.—Sept. 25, 1878. Form 14, land department—statistical. Sept. 25, 1878. Form 15, land department-financial.

Oct. 17, 1878. Form 16, statistical—bridges.

Oct. 19, 1878. Form 17, statistical—passenger, freight, and miscellaneous cars.

Oct. 22, 1878. Form 18, statistical—stocks and bonds.

Oct. 24, 1878. Form 19, freight carried.

April 17, 1879. Form 20, earnings and expenses—monthly.

If any compliance has been made with these requests, it has been only partial.

The Supreme Court of the United States having decided that the so-called "Thurman Act" of May 7, 1878, is constitutional, there can be little question but that in the main, the act of June 19, 1878, creating an auditor of

railroad accounts, and for other purposes, is also constitutional.

So far as this office is concerned, it is not desirable to have to enforce the penalties provided in case of neglect or refusal on the part of any company to make such reports as may be called for, and it is hoped that your company will comply with the requirements of the law in all respects, upon demand hereby now and again made, without necessitating an appeal to the courts.

Very respectfully,

THEOPHILUS FRENCH,
Auditor,
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., September 1, 1879.

Sir: Herewith I hand you two copies of blank form adopted by this office for half-yearly reports.

This form takes the place of all forms hitherto issued from this office with the exceptions of form No. 1 and form for "statement of earnings and expenses" (sample copies enclosed), upon which reports will be required monthly as heretofore. To save the labor of copying by hand, and to insure accuracy in the copies to be retained, the new are printed in copying ink.

If the information cannot be given in full or the exact form prescribed, without considerable special expense, it should be given as complete and as nearly in accordance with the form as may be.

Hereafter your accounts should be so kept that you may be able to comply fully with the requirements.

The amount received as car service should be reported in full in earnings. The amount paid as "car service" should be reported in full in expenses.

I have to request that reports be made to this office by your road, as follows:

First. Half-yearly reports on new form for each of the periods of six months ending December 31, 1878, and June 30, 1879, showing operations, etc., etc., of the land-grant portion of your road.

Second. Half-yearly reports, in any convenient form, for each of the aforementioned periods of six months, showing operations, etc., of such portions of your road as have not received, and are not entitled to receive, any lands of the United States by direct grant from Congress, or indirectly through any State; giving in each case the basis upon which business is prorated therewith.

Third. Abstracts of debit and credit footings, on form No. 1 of your general ledger at close of business before transfer of balances January 31, 1879, and for the last day of each subsequent month.

Fourth. Statement of earnings and expenses for the months, January, 1879-78, and monthly thereafter.

I will thank you to cause the above-described reports to be made at an early day.

Very respectfully,

THEOS. FRENCH,
Auditor,
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Rec'd at Secty's Office,
Mar. 8, '80.
E 174.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., February 28, 1880.

Sir: By this mail a blank form for semiannual report has been forwarded to your address, and I have to request that report be made upon the same for the six months ending December 31, 1879.

Your attention is respectfully called to the following points, viz.:

Pages 4 and 5.—"Additions and Betterments, etc." This is merely for six months, with the understanding that the total cost has been given in former reports.

Page 6.—Give such information as may be possible from your accounts as kept.

Pages 7 and 7A.—The order of detail is so arranged as to enable the classification "conducting transportation."

"Motive power," etc., to be obtained by footing the consecutive items.

Pages 11, 12, 13, and 13A.—The information required by these blanks must of course be governed by your own record of statistics.

Pages 18 and 18A.—These pages it will be noted refer to rolling stock owned, and rolling stock not owned, by which latter is meant such as has been rented, leased, or purchased on installments.

Pages 1 to 20A.—These pages, you will notice, refer to accidents, their classification, casualties, and expenses. It is especially requested that this information be given as fully as possible.

While it is not desirable to put you to any extraordinary or unnecessary expense in this matter of making up reports, it is desirable to have the reports as complete as may be, and that they be rendered at as early a day as practicable.

Very respectfully,

THEOS. FRENCH,
Auditor.

J. L. Willcutt, Esq.,
Secy. Southern Pac. R. R. Co., San Francisco, Cal.

[Stamped]
Secretary's Office,
Mar. 25, 1880, E 275.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., March 18, 1880.

Dear Sir: In reply to your letter of the ninth instant, I enclose, as requested, one additional blank of form 2, issued by this office.

Very respectfully,
THEOPH'S FRENCH,
Auditor,
N. D.

J. L. Willcutt, Esq.,
Sec'y Southern Pacific R. R. Co., P. O. B. 2008, San Francisco, Cal.

[Marked]

Rec'd at Secry's Office,

Mar. 27, '80.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., March 22, 1880.

Dear Sir: I acknowledge receipt, with your letter of the 13th inst., of report on form 1 of this office, and of statement of earnings and expenses for the month of January last, and forward herewith, as requested, 12 blanks of form 1.

Very respectfully,

THEOS. FRENCH,

Auditor.

Geo. T. Folsom, Esq.,

Gen'l Accountant, Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Secretary's Office,
May 17, 1880,
E 210.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., May 6, 1880.

Dear Sir: I have the honor to request that this office be furnished with a copy of your last annual printed report to stockholders.

Very respectfully,
THEOS. FRENCH,
Auditor.

J. L. Willcutt, Esq.,
Secy. Southern Pacific R. R. Co. of Cal., San Francisco, Cal.

[Stamped]

Secretary's Office,
Jul. 12, 1880.
E 235.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 2, 1880.

Dear Sir: I am in possession of the report of your company on form 2 8-002 of this office for the period ended December 31, 1879, and will be greatly obliged if you will forward this report for the half year ending June 30, 1880, so that it may be received on or before September 15th next.

Very respectfully,

THEOS. FRENCH.
Auditor.

J. L. Willcutt, Esq..
Secretary Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Rec'd at Sec'r't'y's Office,
Jul. 30, '80.
E 239.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 22, 1880.

Dear Sir: In reply to your letter of the 14th instant, I desire to say that the report for the half year ending June 30, 1880, on form 2 of this office, corresponds to the report—already received—for period ending December 31, 1879, on form 8-002; the same blank being classified in the department list as form 8-002 and in this office as form 2.

The desired two blanks are herewith enclosed.

Very respectfully,

THEOS. FRENCH,
Auditor.

N. P.

J. L. Willcutt, Esq.,
Secretary Southern Pacific R. R. Co., P. O. Box 2008,
San Francisco, Cal.

[Stamped]
Secretary's Office,
Sept. 15, 1880.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., September 7, 1880.

Dear Sir: Please furnish this office with certain information as indicated by the several headings following, to wit:

1. Amount of granted lands sold up to June 30, 1880, and the consideration therefor.

2. How lands, and the proceeds of sales thereof, are disposed of.

3. Amount and estimated value of lands granted remaining unsold, but earned or capable of being earned under the grant.

4. Number of miles constructed and equipped and the actual cost thereof, in detail, at time of completion.

5. Estimated number of miles to be constructed, and cost of same.

Information in reference to the aforegoing has been called for by the House Pacific R. R. committee, and it is important to have the same at an early day.

Very respectfully,

THEOS. FRENCH,
Auditor.

F.

J. L. Willcutt, Esq.,
Sec. Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., September 18, 1880.

Dear Sir: I beg to acknowledge the receipt of your letter of the 10th instant, with accompanying statements for month of July, 1880, on forms 1 and 3 of this office, and as requested enclose herewith twelve (12) blanks form No. 3.

Very respectfully,

THEOS. FRENCH,

Auditor.

E. W. R.

Geo. T. Folsom, Esq.,

Genl. Acct. Southern Pacific R. R. Co., P. O. Box 2008,

San Francisco, Cal.

[Stamped]
Rec'd at Sec't'y Office,
Mar. 11, '81.
E 231.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., March 1, 1881.

Sir: By this mail two (2) blanks form No. 8-002 of this office have been forwarded to your address, and I have to request reports thereon for periods of six months ending December 31, 1880, and June 30, 1881.

Very respectfully,
THEOS. FRENCH,
Auditor.

Geo. T. Folsom, Esq.,
Gen'l Accountant Southern Pacific Railroad Co. of Cal.,
San Francisco, Cal.

[Stamped]
Rec'd at Secy's Office,
Mar. 28, '81.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., March 19, 1881.

Dear Sir: In compliance with your request of the 11th instant, I send you by to-day's mail two (2) additional blanks form No. 8-002.

Very respectfully,
THEOS. FRENCH,
Commissioner.

Geo. T. Folsom, Esq.,
General Accountant Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Secretary's Office,
May 2, 1881.

Department of the Interior,
Railroad Office,
Washington, D. C., April 19th, 1881.

Dear Sir: Your abstract of debit and credit footings for February with statement of earnings and expenses for same month received.

Replying to request contained in your form accompanying same, I enclose you a supply of these blank forms.

Very truly yours,

THEOS. FRENCH,
Commissioner.

J. L. Willcutt, Esq.,
Secy. Southern Pacific R. R., San Francisco, Cal.

[Stamped]
Secretary's Office,
May 19, 1881.

Department of the Interior,
Railroad Office,
Washington, D. C., May 12, 1881.

Dear Sir: I have the honor to acknowledge the receipt of your letter of May 4, with inclosure for Southern Pacific Railroad.

Very respectfully,
THEOS. FRENCH,
Commissioner.
F. B. P.

J. L. Willcutt, Esq.,
Secy. Southern Pacific R. R. Co., San Francisco, Cal.
[In lead pencil.]
Ab. of Dr. and Cr. footings.
Statement E. & E.

[Stamped]

Secretary's Office,

May 19, 1881.

Department of the Interior,

Railroad Office,

Washington, D. C., May 12, 1881.

Dear Sir: I have the honor to acknowledge hereby the receipt of your communication of April 28, as also inclosure.

Very respectfully,

THEOS. FRENCH,

Commissioner.

F. B. P.

J. L. Willcutt, Esq.,

Secretary Southern Pac. R. R. Co., San Francisco, Cal.

[In lead pencil.]

Report for Hf. year ending Dec. 31, '80.

(The batch of thirty-six letters embraced in the foregoing forty-one pages, dated respectively July 13, 1878, July 22, 1878, July 26, 1878, July 29, 1878, August 1, 1878, August 27, 1878, September 3, 1878, September 9, 1878, September 20, 1878, September 27, 1878, October 1, 1878, October 4, 1878, October 7, 1878, October 10, 1878, October 12, 1878, October 15, 1878, October 16, 1878, October 17, 1878, October 19, 1878, October 22, 1878, October 24, 1878, April 17, 1879, May 17, 1879, September 1, 1879, February 28, 1880, March 18, 1880, March 22, 1880, May 6, 1880, July 2, 1880, July 22, 1880, September 7, 1880, September

18, 1880, March 1, 1881, March 19, 1881, April 19, 1881, May 12, 1881, May 12, 1881, are marked by the special examiner, "Defendants' Exhibit before the Special Examiner No. 70, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the thirty-six letters embraced in the foregoing forty-one pages, and marked "Defendants' Exhibit before the Special Examiner No. 70, Stephen Potter, Special Examiner," with the originals, and find them to be full, true, and correct copies thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 70. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 71.

Ld. Gt. R. R.

Department of the Interior,
Washington, D. C., October 2, 1868.

Sir: I have received your letter of the 1st instant, and in reply have to state that the annual report of the Southern Pacific Railroad Company was received here on the 26th ultimo.

Very respectfully,
Your Obt. Servant,
W. T. OTTO,
Acting Secretary.

C. P. Huntington, Esq.,
Attorney S. P. R. R. Co., 54 William St., New York.

(Marked "Defendants' Exhibit before the Special Examiner No. 71, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 71. Filed Dec. 5, 1893, Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 72

W. M. F.

[Stamped]
Secretary's Office,
Nov. 9, 1881.

(8-106)

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., November 2, 1881.

Sir: Your favor of the 19th ultimo, containing stated enclosures of semiannual reports of your road for the six months ending June 30, 1881 (received through Mr. C. P.

Huntington, A. & A. New York), is received, for which please accept thanks.

Very Respectfully,

JOS. K. McCAMMON,
Commissioner.

To J. L. Willcutt, Esq.,
Secretary Southern Pacific R. R. Co., San Francisco, Cal.
(1680-500)
[Endorsed on back.]

Jos. J. McCammon, Commr., Washington, Nov. 2, 1881. Acknowledging receipt of semiannual report.

(Marked "Defendants' Exhibit before the Special Examiner No. 72," Stephen Potter, Special Examiner.)

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 72. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 73.

(8-106)

[Stamped]
Secretary's Office,
Feb. 8, 1882.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., February 1, 1882.

Sir: Your favor of the 24th ultimo, containing stated enclosures of annual report to stockholders for 1880, is received, for which please accept thanks.

Very respectfully,

JOS. K. McCAMMON,
Commissioner.
Per W. M. F.

To J. L. Willcutt, Esq.,
Secretary Southern Pacific R. R. Co., San Francisco, Cal.

(1680-500)

[Endorsed on back]

Jos. K. McCammon, Washington, Feb. 1, '82. Acknowledging rec't of copies of our reports to stockholders.

(Marked "Defendants' Exhibit before the Special Examiner No. 73, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 73. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 74.

[Stamped] (8-106)

Secretary's Office.

Received May 27, 1882.

Answered ————————.

Respectfully referred to

Department of the Interior,

Office of Commissioner of Railroads,

Washington, D. C., May 20, 1882.

Sir: Your favor of the 5th instant containing stated enclosures of report for half year ending December 31, 1881, is received, for which please accept thanks.

Very respectfully,

W. H. ARMSTRONG,

Commissioner.

Per K. S.

To J. L. Willcutt, Esq.,

Sec'y So. Pac. R. R. Co., San Francisco, Cal.

(1680-500)

[Endorsed on back]

W. H. Armstrong, Com'r, Washington, May 20, 1882.

Acknowledging receipt of Report.

(Marked "Defendants' Exhibit before the Special Examiner No. 74, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 74. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 75.

[Stamped] (8-106)
Secretary's Office,
Received Nov. 17, 1882.
Answered ————————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., November 9, 1882.

Sir: Your favor of the 28th ultimo, containing stated enclosure of report of the Southern Pacific R. R. Co. for the half year ending June 30, 1882, is received, for which please accept thanks.

Very respectfully,

WM. H. ARMSTRONG,
Commissioner.

F. B. P.

To J. L. Willcutt, Esq., Sec'y Southern Pac. R. R. Co., San Francisco, Cal.
(1680-500)

[Endorsed on back]

W. H. Armstrong, Washington, Nov. 9, 1882, Ack'g rec't of report for ½ year endg. June 30, '82.

(Marked "Defendants' Exhibit before the Special Examiner No. 75, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 75. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 76.

[Stamped] (8-106)
Secretary's Office,
Received Aug. 21, 1883.
Answered ————————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., Aug. 11, 1883.

Sir: Your favor of the 30th ulto. containing stated enclosure of report for half year ending Dec. 31, 1882, on our form 8-002, is received, for which please accept thanks.

Very respectfully,

W. M. ARMSTRONG,
Commissioner.
T. J. Walker.

To J. L. Wilcutt, Esq., Secretary S. Pac. R. R. Co., San Francisco, Cal.

(1680-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 76, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 76. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 77.

[Stamped]
Secretary's Office,
Received Apr. 11, 1884.
Answered ————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, April 3, 1884.

J. L. Willcutt, Esq., Sec'y Southern Pacific R. R. Co., San Francisco, Cal.

Sir: After careful consideration, I have concluded that your company may render an annual report on our form 8-002, in lieu of the half-yearly reports heretofore required. Such annual report should be made for the fiscal year ending June 30, in each year, and should reach this office not later than September 1. This change is made to promote the convenience of your office, and, upon your

assurance that the report will be furnished by the time indicated, the semiannual report will be dispensed with, reserving, however, the right to require it as heretofore, if it should appear necessary.

The monthly reports of earnings and expenses will be required as formerly.

Very respectfully,

F. B. PICKERILL,

For the Commissioner.

(Marked "Defendants' Exhibit before the Special Examiner No. 77, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 77. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 78.

[Stamped]
Secretary's Office,
Received Sept. 12, 1884.
Answered ————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, Sept. 6, 1884.

J. L. Willcutt, Esq., Secty. Southern Pac. R. R. Co., San Francisco, Cal.

Dear Sir: I have the honor to acknowledge receipt of your letter of the 23 ulto, also, by express, your report for 1884, on our form 8-008.

Very respectfully,

THOS. J. WALKER,
(In charge of office in the commrs. absence.)

(Marked "Defendants' Exhibit before the Special Examiner No. 78, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 78. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 79.

[Stamped]

Secretary's Office.

Received Feb. 18, 1885.

Answered ————————.

Department of the Interior,

Office of Commissioner of Railroads,

Washington, February 10th, 1885.

J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co.,

San Francisco, California.

My Dear Sir: Many thanks for your prompt and kind compliance in sending 2 full sets repts.

Very truly yours, &c.,

F. B. PICKERILL.

(Marked "Defendants' Exhibit before the Special Examiner No. 79, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 79. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 80.

F. B. P.

[Stamped]

Secretary's Office,

Received June 1, 1885.

Answered ————————

Department of the Interior,

Office of Commissioner of Railroads,

Washington, May 22, 1885.

J. L. Wilcutt, Esq., Secretary Southern Pacific R. R. Co.,
San Francisco, Cal.

Dear Sir: I have received the letter of the 14th instant in which you inform me that "by reason of the lease of the Southern Pacific Railroad of California to the Southern Pacific Company, the operations of this road will hereafter be included in the statements of that company."

I beg leave to suggest that the obligations of the Southern Pacific Railroad of California to the United States Government are in no manner affected by the lease to which you refer, and, consequently, that statements of the operations of that company are as necessary now, and will be hereafter, as they have been hitherto. Therefore I respectfully request that you will continue to furnish them.

Most respectfully yours,

J. E. JOHNSTON,

Commissioner.

(Marked "Defendants' Exhibit before the Special Examiner No. 80, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 80. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 81.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, December 21, 1885.

Charles Crocker, Esq., President Southern Pacific R. R. Co., San Francisco, Cal.

Sir: I respectfully inclose herewith rules established by the secretary of the interior, on the subject of the reports and accounts to be furnished to this office, and blank forms of those accounts.

Your obedient servant,

J. E. JOHNSTON,
Commissioner.

[In lead pencil]

Rec'd 1 copy form 8-008 A.

Rec'd 1 copy form 8-002 B.

Also copies Cir. Letter of Nov. 27, '85.

(Copy of enclosure.)

System of Reports.

Department of the Interior,

Office of the Commissioner of Railroads.

Washington, D. C., November 27, 1885.

By virtue of the authority vested in the commissioner of railroads by the third section of the act of June 19, 1878, by and under the direction, and with the approval of the secretary of the interior, I do hereby prescribe the following system of sworn "reports to be rendered" to me by the railroad companies whose roads are in whole or in part west, north, or south of the Missouri river, and to which the United States have granted any loan of credit or subsidy in bonds or lands," which system is to take effect on and after the 31st of December, 1885.

1. Annual report to be returned to the commissioner of railroads, to be made on or before the first day of February of each year, and to include business to the thirty-first of December in the year next preceding, in accordance with form hereto annexed marked "A."

2. Semiannual report, embracing the whole earnings of each road and the whole earnings of each branch, the net earnings of each road, and the net earnings of each branch; the items of charge which make the difference between the gross earnings of each road and its net earnings, and of each branch and its net earnings, specifically showing the items composing such difference, and, in other respects, according to the form hereto annexed marked "B."

3. A monthly report, between the first and fifteenth of each month, showing the gross and net earnings of each road during the last preceding month.

4. Where a portion of any road is subsidized and a portion not subsidized, a separate account and report of the actual gross and net earnings of the subsidized portion of the road, and the actual gross and net earnings of the nonsubsidized part, according to rules 1, 2, and 3, and forms "A" and "B."

5. A report, at least ten days in advance of each meeting of the stockholders, specifying distinctly what business is to be done or submitted for action at such meeting.

6. A report, to be made at least ten days before each meeting of the directors, with a full and specific statement of all business to be submitted to such board.

7. A report, to be made at least three days in advance of each meeting of the executive committee of the board of directors, with a full statement of all business to be submitted to such committee.

8. A report of the minutes of each meeting of the stockholders within ten days after the adjournment of such meeting.

9. A full report of the minutes of each meeting of the board of directors, to be returned within ten days after the adjournment of such meeting, including names of directors present, and how each voted.

10. A full report of the minutes of each meeting of the executive committee, to be submitted within ten days after adjournment, including the names of directors present, and how each voted.

11. A quarterly report of the rates charged during each quarter, within fifteen days after the close of the quarter, for passengers and traffic on each road and each of its branches, both as to through and local traffic on each, and the portion of road or roads to which such rate or rates applied.

12. A distinct and full report of all special rates, if any, to whom allowed; also all, if any, rebates or drawbacks, and to whom, and the aggregate amount of each, to be returned within fifteen days after the close of each quarter.

13. All contracts made with any other railroad or transportation company or companies within ten days after such contract is made, with a copy of the contract if in writing, with a full statement thereof if in parol.

J. E. JOHNSTON,
Commissioner of Railroads.

Approved: L. Q. C. LAMAR,
Secretary.

(4784:500)

(Marked "Defendants' Exhibit before the Special Examiner No. 81, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 81. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 82.

[Stamped] (8-106)
Secretary's Office.
Received Sept. 6, 1886.
Answered—file
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., Aug. 30, 1886.

J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co.,
San Francisco, Cal.,

Sir: Your favor of the 18th instant, containing enclosures, as stated below, has been received, for which you will please accept my thanks.

Very respectfully (in absence of the commissioner),

EDWARD HERRICK,
In Charge.

Report form "B" for six months ending June 30, 1886. (15006-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 82, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 82. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 83.

[Stamped] (8-106)
Secretary's Office.
Received May 13, 1887.
Answered—file
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., May 7, 1887.

Sir: Your favor of the 29th ultimo containing stated enclosures of reports forms "A" and "B" for December 31, 1886, is received, for which please accept thanks.

Very respectfully,
EDWARD HERRICK,
For the Commissioner.

To J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco, Cal.
(7747-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 83, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 83. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 84.

[Stamped] (8-007)

Secretary's Office.

Received May 16, 1887.

Answered, receipt a knowledged on blank form.

Respectfully referred to

Department of the Interior,

Office of Commissioner of Railroads,

Washington, May 7, 1887.

J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co.,
San Francisco.

Dear Sir: Inclosed please find supply of our blank forms, as follows:

.....Form 8-001. General Ledger Footings.

...3...Form 8-002. Semiannual Reports.

.....Form 8-003. Monthly Earnings and Expenses.

....

....

for use in reporting to this office.

You are respectfully requested to give timely notice before the supply is exhausted, in order that you may at all times have a sufficient quantity on which to make prompt returns.

Please acknowledge receipt on attached form.

Very respectfully,

EDWARD HERRICK,
For the Commissioner.

(9-22-'83-300)

(Marked "Defendants' Exhibit before the Special Examiner No. 84, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 84. Filed December 5, 1898. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 85.

[Stamped] (8-106)
Received Sept. 23, 188—.
Answered
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., September 17, 1887.

Sir: Your favor of the 5th instant containing stated enclosures of report, form "B," for June 30, 1887, is received, for which please accept thanks.

Very respectfully,

EDWARD HERRICK,
For the Commissioner.

To J. H. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco.

(7747-500)

(Marked "Defendants' Exhibit before the Special Examiner, No. 85, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 85. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 86.

[Stamped] (8-106)
Secretary's Office.
Received April 9, 1888.
Answered—file
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., April 2, 1888.

Sir: Your favor of the 22nd ultimo contained stated enclosures of reports "A" and "B" for December 31, 1887, is received, for which please accept thanks.

Very respectfully,

EDWARD HERRICK,
For the Commissioner.

To J. H. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco.

(7747-500.)

(Marked "Defendants' Exhibit before the Special Examiner No. 86, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 86. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 87.

[Stamped] (8-106)

Received June 11, 1889.

Answered—file.

Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., June 4, 1889.

Sir: Your favor of the 22d ultimo, containing stated enclosures of report on form 8-008 "A," for the year ending

December 31, 1888, is received, for which please accept thanks.

Very respectfully,

EDWARD HERRICK,

In Charge.

To J. H. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco, Cal.

(16032b-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 87, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 87. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 90.

(4-83-250.)

Date. This indenture made and entered into this first day of April, A. D. 1875, by and between the Southern Pacific Railroad Company, a railroad corporation, duly incorporated and organized under and in pursuance of the laws of the State of California, party of the first part,

Trustees. and D. O. Mills and Lloyd Tevis, of the city and county of San Francisco, California, parties of the second part, witnesseth: That

Purpose of Mortgage. Whereas, the said party of the first part desires to complete the construction and equipment of its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river, at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen, to the junction

Route of railroad. with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to the

Texas Pacific Railroad near Fort Yuma; and also from Los Angeles to Wilmington on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, and to cancel its present bonded indebtedness for construction secured by a mortgage heretofore made and bearing date November first, eighteen hundred and seventy, and to that end intends and is about to issue its first mortgage bonds upon said railroad and telegraph line, and its rolling stock, fixtures, and franchises, and also upon the lands granted to it by Congress, by the act of Congress entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved July twenty-seventh, eighteen hundred and sixty-six, and the act entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy-one, not sold or otherwise disposed of prior to the execution of this mortgage, aggregating as near as can be estimated eleven millions of acres; and

Property Mortgaged includes land grants.

Whereas, heretofore, to wit, on the nineteenth day of December, A. D. eighteen hundred and seventy-four, the board of directors of said company, pursuant to the statute of the State of California, in such cases made and

provided, at a meeting of said board, at which all the members thereof were present, did, by a resolution to that effect, which was unanimously adopted and passed, determine and direct that first mortgage bonds upon said railroad and telegraph line, its rolling stock, fixtures and franchises, and upon said hereinbefore described lands, to the number of forty-eight thousand (forty-four thousand of which shall be for one thousand dollars each, and four thousand of which shall be for the sum of five hundred dollars each), in seven series to be designated by the letters of the alphabet, commencing with the letter "A," and followed by the succeeding letters in regular order to the letter "G," both inclusive, be prepared, executed and issued by the president and secretary of said company. Series "A" to consist of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds, for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight

Board of Directors authorize Mortgage to be made.

Description of Bonds.

thousand, both inclusive. All of said bonds being payable thirty years after date, with interest at the rate of six per centum per annum, payable semiannually. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars; and

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further resolve, that the said series "A" of said bonds should be executed and issued in substantially the following form, and that the succeeding series of said bonds should be in a similar form, with the necessary changes to conform to said resolutions or orders, which form is as follows, to wit:

The United States of America:

$1,000 in United States Gold Coin

In United States, $1,000 Gold Coin

Form of bond.

(Vignette)

First Mortgage Bond.

No. ....

Series "A."

The Southern Pacific Railroad Company (of California), for value received, promises to pay

Rate of interest.

one thousand dollars to Mark Hopkins, or bearer, in the city of New York, thirty years from the date hereof, with interest thereon at

the rate of six per centum per annum from said date, payable semiannually on the first day of October next ensuing, and on the first day of April and October in each year thereafter, in the city of New York, on presentation and surrender of the requisite coupons hereunto annexed, both principal and interest payable in United States gold coin at par, dollar for dollar.

This bond is one of series "A" of the first mortgage bonds issued and to be issued by the said Southern Pacific *Pacific* Railroad Company in seven series designated respectively by the letters of the alphabet, commencing with "A" and ending with "G," both inclusive. Series "A," consisting of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight thousand, both inclusive. All of said bonds being payable thirty years after their respective date, with the interest at the

Series.

rate of six per centum per annum, payable semiannually.

Dates. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars.

No preference by reason of priority. The holder of any of such bonds is to have no preference over any other holder of any of said bonds by reason of any priority in date or the time of issuing the same or otherwise.

All of said bonds are secured by a mortgage or deed of trust bearing even date with the bonds constituting series "A," duly executed by said company to D. O. Mills and Lloyd Tevis, San Francisco, California, as trustees, upon its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river at or near the "Needles"; also from

How secured. Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington on San

Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, with all the rolling stock, stations, fixtures and franchises for the permanent use thereof, and the appurtenances thereto now owned or held, or that may be hereafter required by said company for the permanent use of said railroad and telegraph lines.

Includes lands.

Also upon all the lands granted to said company by the Congress of the United States, to aid it in the construction of said railroad and telegraph lines, not sold or otherwise disposed of prior to the execution of said mortgage, aggregating, as near as can be estimated, eleven millions of acres.

In testimony whereof, the Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and these presents to be signed by its president and secretary this first day of April, in the year of our Lord one thousand eight hundred and seventy-five.

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that to each of said bonds there should be attached sixty interest coupons, numbered re-

spectively from one to sixty, inclusive, substantially in the following form, to wit:

Form of coupons.

$30 Series A

Southern Pacific Railroad Company of California.

Coupon. Bond No. ——. No. ——.

Thirty Dollars.

Interest due ———.

Payable in the City of New York in United States Gold Coin.

————————, Secretary.

with such changes in amount in the body and in the coupon as shall be necessary to conform to the order of the board of directors aforesaid, in regard to the several amounts or sums which are payable in each class of bonds; and

Whereas, by an act of Congress of the United States of America, approved on the twenty-seventh day of July, A. D. eighteen hundred and sixty-six, entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," there was granted to the said Southern Pacific Railroad Company, party of the first part, a large body of public lands of the United States, to wit: Every alternate section of public lands, designated by odd numbers, to the amount of ten alternate sections per mile on each side of the

railroad and telegraph line of said company running from the bay of San Francisco to the southeasterly line of the State of California, being about six hundred and thirty-six miles, not sold, reserved, granted, or otherwise appropriated, and free from pre-emption, homestead, or other claims or rights at the time the line of said road is designated by a plat thereof, filed in the office of the commissioner of the general landoffice and such other alternate sections designated by odd numbers as aforesaid, and situated not more than ten miles beyond the limits of the said first alternate sections, which may be selected by said company, in lieu of any of the sections first aforesaid which may have been sold, granted, reserved, pre-empted, occupied as homesteads, or otherwise disposed of, or to which other rights may have attached, as provided in the act of Congress aforesaid for the purpose of aiding in the construction of the railroad and telegraph line of the said party of the first part; and

U. S. Government Land grant.

Whereas, by an act of Congress of the U. S. of America, approved on the third day of March, eighteen hundred and seventy-one, entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," there was granted to the said Southern Pacific Railroad Company the authority to construct a line of railroad from a point near Tehachapi

Act of Congress authorizing the company to construct lines to connect with Texas

Pacific Railroad and Atlantic and Pacific Railroad.

Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same rights, land grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to and imposed upon the said Southern Pacific Railroad Company of California, by the aforesaid act of July twenty-seventh, eighteen hundred and sixty-six, before recited, subject to the rights, present and prospective, of the Atlantic and Pacific Railroad Company, which said last line of road is of the length of three hundred and fifty-six and seven one-hundredths miles; and

Mortgage to be executed to trustees.

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a first mortgage upon said road and its rolling stock, stations, fixtures, right of way and franchises, and the lands aforesaid granted by said acts of Congress, not sold or otherwise disposed of, or contracted to be sold, as shown by the books of said company, should be executed under the corporate seal of said company, and be signed by its president and secretary, to D. O. Mills and Lloyd Tevis, both of the city and county of San Francisco, State of California, as trustees for the holders of said bonds; and

Sinking fund $100,000 yearly, commencing 1882.

Whereas, said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds, by setting apart the sum of one hundred thousand dollars of the net income of said road in the year eighteen hundred and eighty-two, and each year thereafter until all of said bonds, principal and interest, shall have been redeemed or paid, in trust to be loaned out at interest, upon good securities, or otherwise invested under the order and direction of said board of directors, or used to redeem said bonds as often as one hundred thousand dollars shall come into the sinking fund, in which case notice shall be published in one paper in the city of San Francisco and two papers in New York City, that bonds will be redeemed at a price not exceeding their par value, and inviting bids for the surrender thereof at prices to be named, not exceeding the par value of said bonds; the lowest bids less than par to be accepted, and bonds redeemed to the extent of the money in the sinking fund:

Redemption of bonds.

Now, therefore, this indenture witnesseth, that the said Southern Pacific Railroad Company, for the better securing of the payment of the principal and interest of the said first mortgage bonds, and in consideration also of the sum of one dollar, to it in hand paid by the

Description of property conveyed to trustees.

said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and aliened, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, convey and confirm unto the said parties of the second part, and to their successors duly appointed, for the execution of the trusts herein set forth, the following property now or hereafter constituted, purchased, acquired, held in possession and owned by said company, to wit: The whole of the railroad and telegraph line of the said company, running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley and Polonio Pass, to the Colorado river, at or near the "Needles"; also, from Carnadero Junction to San Benito; also, from Los Gatos creek, via Goshen, to the junction with the first mentioned line, between Poso creek and Kern river; also, from the junction near Tehachapi Pass, via Los Angeles, to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering-places, work-shops, machine-shops, machinery, sidetracks, turn-

outs, turn-tables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, full equipments, fixtures, tools and all other property which may be necessarily or ordinarily used in operating or repairing the said railroad, including all of the said property, which is now or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to said railroad, and all the corporate rights, privileges and franchises of said company, pertaining to said road, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues and profits thereof, with all the rights, titles, interests, estate, propety, succession, claim and demand, in law or equity, of the said party of the first part, of, in and to the same, or any part and parcel thereof; to have and to hold the above granted and described premises, property and franchises, with the appurtenances, unto the said parties of the second part, and to the survivor of them, and to their successors, duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies, politic or corporate, who shall have become, or be from time to time, holders of the said "first mortgage bonds," or any of them. Pro-

vided, always, and these presents are upon the express condition that if the said party of the first part, or its successors, shall well and truly pay, or cause or procure to be paid unto the holders, from time to time, of said bonds, and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and all the property, estate, right, franchises, and privileges herein and hereby granted and conveyed, shall cease, determine and be void. But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid, according to the terms of said bonds, then the said parties of the second part, or either of them, upon the refusal of the other, or their successors in said trust, by themselves, or their agents, or servants, in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds, on which the interest or principal shall so be and have so remained in default, as aforesaid, enter into and upon and take possession of all, or in their

Proceedings in event of default in payment.

or his discretion, any part of the said premises and property hereinbefore described, and work and operate the said railroad, and receive the income, receipts and profits thereof, and out of the same pay: First, the expenses of running and operating the same, including therein such reasonable compensation as they or he may allow to the several persons employed or engaged in the running and superintendence of the same, and a reasonable compensation to the parties of the second part, or their successors, or such of them as shall act in the premises, for their or his care, diligence and responsibility in the premises. Second, the expenses of keeping the said road, the appurtenances, the locomotives and the rolling stock thereof in good and sufficient repair, to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof. And third, pay as far as the same will suffice, all interest and principal, if any, which may be due on said bonds; and in case of any deficiency to apply said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind, or the said parties of the second part may in such case foreclose this mortgage, and sell and dispose of, according to law, all the rights, property, privileges, franchises, real and personal, with the appurtenances

herein and hereby granted, or so much thereof as may be necessary, and out of the money arising from such sale pay: First, the costs, and charges, and expenses of the foreclosure and sale, including therein reasonable counsel fees for conducting said proceedings, to be allowed and fixed by the Court, but not exceeding thirty thousand dollars. Second, any expenses, costs and charges of the execution of the trust previously incurred and remaining unpaid. Third, a reasonable compensation to the trustees, or one of them, who may act, for their or his care, trouble and service in completing the execution of his trust and the distribution of the proceeds of sale, to be fixed by the Court, but not exceeding twenty thousand dollars. And fourth, to distribute the residue of said proceeds among the holders of said bonds, in proportion to their several interests, until all have been paid in full, principal and accrued interests.

Proceeds from sale of depot lands, etc., not needed for such purpose may be sold and proceeds applied to redemption of bonds.

And the said party of the first part hereby covenants and agrees that if, at any time, any lands now used for depot or shop purposes, or right of way, or water, or any lands not now used, but which may be hereafter used for such purposes, shall, for any cause, cease to be needed or used by said party of the first part for such purposes, the said parties of the second part may sell the same at the price to be agreed upon by the parties of the first and second parts, and apply the money realized

from such sale or sales to the redemption of said bonds in the manner hereinafter provided, in the case of money realized from the sale of lands granted by the United States to the said party of the first part.

And the said party of the first part hereby agrees and covenants to and with the said parties of the second part, and their successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be imposed upon the property herein described and hereby mortgaged, and every part thereof, and the said parties of the second part, the survivor of them, or their successors in said trust, or any one or more of the holders of said bonds, may in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon, prior to these presents, or to which this mortgage may be subject or subordinate, and for all payments thus made the parties so making the same shall be allowed interest thereon at the rate of seven per centum per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money

Company to pay all taxes, assessments, etc., or, in default, trustees may pay and receive 7% interest on such payments.

wherein they shall have been paid, and the same shall be payable by said party of the first part to said parties of the second part, upon demand in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

Will execute any further conveyances required.

And the said party of the first part further covenants and agrees to and with the said parties of the second part, and their successors in said trust, that they will at any and all times hereafter, upon the request of the said parties of the second part, execute, acknowledge and deliver to the said parties of the second part, all and every such further, necessary and reasonable conveyances and assurances, of the said premises or any part thereof, as may, by the parties of the second part, or the survivor of them, or his or their successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance, and the said parties of the second part, and their successors in said trust, shall be entitled to receive a just and proper compensation for all services rendered by them in the discharge of said trust, and the same shall be deemed to be secured hereby.

Compensation to trustees.

And it is hereby stipulated and agreed that the said parties of the second part, and their successors in said trust, shall not be responsi-

ble for the acts or omissions of any agent or agents employed by him or them, in any manner, in and about the execution of the trust hereby created when such agent or agents are selected with reasonable discretion; or with the approbation, or with the knowledge and without the express disapprobation of said party of the first part, nor shall either of the said parties of the second part be responsible for any act or omission of the other in the execution of said trust.

Agents of trustees.

And, therefore, this indenture further witnesseth: That the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the premises, and also for and in consideration of the sum of one dollar to the said party of the first part in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed and confirmed, and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm unto the said parties of the second part, as trustees, and to their successors and survivor, and their assigns forever,

Conveyance of land to trustees.

All and singular, the said several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever,

at law or in equity, of, in, or to the same, or any part or parcel thereof, which the said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire have, hold, own, or be, or become entitled to by force or virtue of the said acts of Congress; saving, excepting and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the said railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

Reserved lands.

To have and to hold all and singular the lands hereby granted or intended to be granted, and each and every part and parcel thereof, with the appurtenances thereunto belonging, unto the said parties of the second part, and their successors and survivor, and their assigns forever, as trustees, for the uses and purposes, and upon the trusts, terms, conditions, and agreements in this indenture set forth and declared.

Provided, always, and these presents are upon the express condition, that if the said party of the first part shall well and truly pay, or cause to be paid, to the holders of said bonds, and every of them, the principal sums

Lands shall revert to and vest in the S. P. R. R. if—

of money therein mentioned, according to the tenor thereof, with the interest thereon, at the times and in the manner hereinbefore provided, according to the true intent and meaning of these presents, then and from thenceforth this indenture and the estate hereby granted shall cease and determine, and all the right, title and interest in any and all property hereby conveyed to the parties of the second part, not then disposed of under the powers hereby conferred, shall revert to and vest in the said party of the first part.

This indenture further witnesseth, that these presents and the said bonds are made, executed and delivered upon the trusts, terms, conditions and agreements following, that is to say: That all the lands hereinabove conveyed and mortgaged shall be under the sole and exclusive management and control of the said party of the first part, who shall have full power and authority to make contracts for the sale of the same at such price, on such credit or terms of payment, and such other conditions as shall be agreed on by the said parties of the first and second parts, and as shall seem to them best calculated to secure the payment in full of all the bonds issued as hereinbefore provided, until entry or foreclosure by the trustees, as hereinafter provided. But no title to any tract of land, contracted to be sold by the said party of the first part, shall

Land to be under the control of S. P. R. R.

be given until the whole of the purchase money of said tract shall be paid to said parties of the second part, or their successors or survivor, in cash or in said bonds, or overdue coupons thereof. And for this purpose it is agreed that the said party of the first part and said trustees shall cause all such lands, as they shall from time to time become subject to sale, to be carefully examined and surveyed, and shall affix to each tract or parcel such price as in their judgment shall be most judicious, having in view the interests of all parties, and said lands shall be and remain at all times hereafter open for sale to any person who may desire to purchase and pay therefor; the prices being, nevertheless, at all times subject to revision and alteration by the said parties; and the party of the first part may reserve from sale any lands necessary for depot grounds, or other purposes connected with the construction or operation of the said railroad or telegraph.

Payments to be made to trustees.

Land to be graded, etc.

The purchaser of any such land shall be at liberty to pay for the same in the aforesaid bonds or overdue coupons at par; and when any tract or parcel of said lands shall have been purchased and paid for, either in bonds, coupons, or cash, as hereinbefore provided, the same shall be conveyed by the said parties of the first and second parts to the purchaser, in fee simple, and shall by such conveyance

Lands may be

for in bonds and overdue coupons.

be absolutely and forever released from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said party of the first part.

Trustees may convey land by power of attorney.

Provided, that for the sake of convenience in making said conveyances the said trustees shall have power to act by attorney, duly nominated and appointed by them, jointly, by letter of attorney, which shall be duly acknowledged and recorded in each and all of the counties in which said lands or any part thereof are situated; and all deeds made in their names by such attorney shall have the same force and effect as if made by them in person.

Residence of such attorney.

Provided, further, that the attorney so appointed shall be a resident of the city of San Francisco, in the State of California, and shall reside within convenient reach of the party of the first part.

Trustees to cancel bonds and coupons.

The said trustees shall and will cancel and discharge each and every bond and the coupons thereon, and all overdue coupons, which they may receive in payment for land, or by purchase, by defacing the seal of the corporation, perforating the signatures of the president and secretary, and drawing lines across each of the interest coupons, on receipt thereof; and all bonds and coupons received in payment for lands, as aforesaid, shall, when so canceled, be delivered to the said party of the part.

Proceeds of sales of lands shall be applied to the purchase of bonds.

The said trustees shall apply the proceeds of the sales made by them of lands hereby conveyed, to the sole and exclusive purpose of the payment of the bonds provided for in, and issued in conformity to, the terms of this indenture.

And for such purpose all such avails shall, from time to time, as the same are realized, be used in the purchase of such bonds in the market, to be canceled, so long as purchases thereof can be made at par; and whenever such bonds cannot be purchased at that rate, said trustees shall advertise for proposals to sell such bonds to them in two newspapers published in the city of New York, and one newspaper published in the city of San Francisco; and after receiving such proposals they shall have power to purchase such bonds at the lowest terms so offered.

How bonds shall be purchased.

The said party of the first part does hereby covenant and agree to pay to the holders of said bonds, respectively, the said principal sums of money therein mentioned and the interest thereof as aforesaid.

If any default shall be made in the payment either of principal or interest on any of said bonds for six months, after demand at the place of payment when the same shall become due, then the said trustees may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and

take possession of any of the lands above conveyed, and foreclose this mortgage, and may sell at public auction so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the costs, charges, and expenses of such entry, foreclosure and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and the said trustees may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage, and sell at public auction all said lands or so much thereof as may be necessary, first giving at least six months previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges and expenses of such last-mentioned entry, foreclosure and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part. In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute and deliver

In event of default in payments for six months, trustees may foreclose mortgage and dispose of lands at public auction sufficient to discharge all arrears.

a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any such foreclosure proceedings shall be commenced for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustees, and pay all the costs, charges and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustees shall discontinue their proceedings thereon, and restore to the said party of the first part all of such lands to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced. In case a vacancy shall happen in the number of trustees, hereinbefore mentioned as parties of the second part in this indenture, or if one of them shall be temporarily absent, the remaining trustee shall, while said vacancy or absence exists, have all the rights, exercise all the

Foreclosure proceedings for interest to cease if interest is subsequently paid.

powers and discharge all the duties devolving on said trustee by said instrument. But as soon as it conveniently may be done, such vacancy shall be filled by the nomination by the remaining trustee of some proper person to fill such vacancy, which nomination shall be submitted to the board of directors of said company, and, if approved by them, the person so nominated and approved immediately shall become a trustee under this instrument. If said nomination is not approved, another person shall be nominated by said remaining trustee, and in like manner submitted for approval, and so on till three nominations shall have been made. But if three successive nominations shall be made, and none of them shall be approved by the board, said vacancy shall be filled by a committee of three persons, selected, one by said remaining trustee, one by said board of directors, and a third by the two thus selected, and the person appointed trustee by a majority of the committee shall be and remain a trustee under this instrument. And the person regularly appointed a trustee to fill a vacancy in either of the forms above specified shall from and after his said appointment, and his acceptance of the appointment, become vested with the same estates, powers, rights and interests, and charged with the same duties and responsibilities, as if he had been one of the original trustees, parties of the

How vacancy in trustees is to be filled.

second part, named in and executing this instrument; and the prior remaining trustee may and shall execute such conveyances and instruments as may be proper or necessary to vest the same in such new trustee jointly with him, or to furnish evidence of such vesting. If at any time either of the said trustees shall resign his place as trustee by a proper deed in writing to that effect, and such resignation shall be accepted by the said party of the first part, then, and in every such case, the place of such resigning trustee thereupon shall become and be vacant.

Reconveyance by trustees upon payment of bonds and interest.

Whenever all the bonds shall have been made and issued by the said party of the first part under and in conformity to the provisions of this indenture, with the interest thereon, together with all the expenses incurred by the said trustees in the execution of the trust herein and hereby created, shall have been fully paid and satisfied, the said trustees shall reconvey to the said party of the first part all and singular the said lands then in the hands of the said trustees, and not before that time sold or disposed of, in the execution of the trust hereby created. In case the said trustees shall at any time have any trust moneys on hand, received from the sale of the lands hereby conveyed, which will not be required to meet any immediate liabilities of the company, to which said moneys are by these presents devoted, the

said moneys shall be loaned on interest, or deposited on interest, with some bank or trust company in the city of San Francisco or Sacramento, subject to be drawn by checks signed by the trustees or such one of them as they may designate. All of the books of the said company, and of the trustees, relating to the lands hereby conveyed, shall be mutually open to the inspection of said company and said trustees. It shall be the duty of the said trustees to certify and deliver to the said party of the first part the said bonds, as the same from time to time shall be demanded, issued or used by the said party of the first part.

Deposit of surplus moneys by trustees.

And it is hereby mutually agreed by and between the parties hereto that the said parties of the second part, and their survivor and successors, and their heirs, executors and administrators, shall not be answerable for the acts, omissions or defaults of each other, nor for anything short of their own gross negligence or willful misfeasance.

Responsibility of trustees.

It is hereby declared by the parties to this indenture, that all the provisions of said acts of Congress, so far as they are applicable, are hereby made and shall be deemed and taken to be a part of this instrument; and the said provisions in all that concerns the sale and disposal of the said lands hereby conveyed to the parties of the second part are to be observed and strictly and faithfully carried out and fulfilled.

Provisions of acts of Congress to be observed.

And the said party of the first part covenants and agrees to and with the said parties of the second part, that the said party of the first part shall and will, at any and all times hereafter, and from time to time, execute, acknowledge, and deliver, under its corporate seal, to the said parties of the second part, and their survivors and successors, all such other or further assurances, deeds, mortgages, obligations, transfers, indentures and instruments in writing, and shall and will do and perform all such other or further acts or things as shall or may be necessary or proper, or as their counsel, learned in the law, shall deem necessary, proper, or expedient for the better or more effectually securing upon the above conveyed and mortgaged premises the payment of the said bonds so to be issued, and the interest due and to grow due thereon in manner aforesaid, or for carrying into effect the true intent, design, objects, and purposes of these presents. And the said parties of the second part hereby accept the trust created and declared by this instrument, and agree to discharge the same pursuant to the provisions in that behalf herein contained.

Will execute further instruments if necessary to secure payments of bonds.

In witness whereof, the said Southern Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal, and the above parties of the second part have

hereunto set their hands and seal, the day and year first above written.

[Corporate Seal
S. P. R. R. Co.]

CHARLES CROCKER,
President Southern Pacific Railroad Company.

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

We accept the trust declared in the foregoing instrument.

D. O. MILLS, [Seal]
LLOYD TEVIS, [Seal]
Trustees.

State of California,
City and County of San Francisco. } ss.

On this third (3rd) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president of the Southern Pacific Railroad Company, and J. L. Willcutt, known to me to be the secretary of the Southern Pacific Railroad Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this third day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

I, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, residing in the city of San Francisco, duly commissioned and sworn, do certify that on the sixth (6th) day of July, in the year one thousand eight hundred and seventy-five (1875), personally appeared before me in the city and county of San Francisco, State of California aforesaid, Charles Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individuals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally, then and there, acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being by me duly sworn, did depose and say that he resides in the city and county of San Francisco, State of California; that he is and was secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and

was by him so affixed by order of the board of directors of the said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was and is acquainted with Charles Crocker, and knows that said Charles Crocker is and was president of the Southern Pacific Railroad Company at the date of said instrument; that the signature of the said Charles Crocker subscribed to said instrument is in the genuine handwriting of the said Charles Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, the sixth day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this seventh (7th) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared D. O. Mills and Lloyd Tevis, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, this seventh day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Filed for record at the request of D. W. Parkhurst, and recorded in office of the county recorder of San Mateo county, July 8, 1875, at 5 P. M., in Liber 11 of Mortgages, at page 2 and following.

Witness my hand and seal of office.

Paid, $22.50.

[Seal] GEO. H. RICE,
County Recorder.
By W. R. Thomas,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 9 o'clock and 26 minutes, A. M., and recorded in Book 15 of Mortgages, at page 156 et seq., Records of the County of Santa Clara, in the State of California.

Witness my hand and seal of office.

Paid, $15.

[Seal] W. J. COLAHAN,
County Recorder.
By F. J. Saxe,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 8 o'clock and 53 minutes, P. M., and recorded in Book 1 of Mortgages, at page 586 and following, Records of San Benito County, in the State of California.

Witness my hand and seal of office.

Fees, $15, paid.

[Seal] H. M. HAYES,
County Recorder.,

Filed for record at the request of D. W. Parkhurst, July 10, A. D. 1875, at 8 o'clock and 10 minutes, P. M., and recorded in volume 17, page 529 and following pages of the Mortgage Records of the County of Santa Cruz, in the State of California.

Witness my hand and seal of said county recorder.

Paid, $15.00.

[Seal] H. E. MAKINNEY,
County Recorder in and for Santa Cruz County.

Filed for record at the request of D. W. Parkhurst, July 12, A. D. 1875, at 9 o'clock and 55 minutes, A. M., and recorded in Book 1 of Mortgages, page 183 and following, Records of the County of Monterey, in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] HERBERT MILLS,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 13, A. D. 1875, at six o'clock and 25 minutes, P. M., and recorded in Book "C" of Mortgages, page 540 et seq., Records of the County of San Luis Obispo, in the State of California.

Witness my hand and seal of office county recorder.

Fees, $15.

[Seal] CHAS. W. DANA,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 14, A. D. 1875, at 2 o'clock and 20 minutes, P. M., and recorded in Book "F" of Mortgages, pages 164 and following, Records of the County of Santa Barbara, in the State of California.

Witness my hand and seal of office of county recorder.

Fees, $15, pd.

[Seal] H. P. STONE,
County Recorder.
By J. O. B. Wentling,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 16, A. D. 1875, at 8 o'clock and 40 minutes A. M., and recorded in Book 15 of Mortgages, page 600 et seq., Records of the County of Los Angeles, in the State of California.

Witness my hand and seal of office county recorder.

Fees, $15, pd.

[Seal] J. W. GILLETTE,
County Recorder.
By D. S. Lovejoy,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 19, A. D. 1875, at nine o'clock and 15 minutes A. M., and recorded in Book Volume 2 of Mortgages, pages 217 and following, Records of the County of Kern in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] F. W. CRAIG,
County Recorder.

Filed for record at the request of D. W. Parkhurst, Esq., July 20, A. D. 1875, at 8 o'clock and 15 minutes, P. M., and recorded in Book "D" of Mortgages, pp. 310 et seq., Records of the County of Fresno, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] A. M. CLARK,
County Recorder.
By C. L. Wainwright,
Deputy.

Filed for record at request of D. W. Parkhurst, July 21, A. D. 1875, at 10 o'clock and 30 minutes, A. M., and recorded in Book "K" of Mortgages, page 1 et seq., Records of the County of Tulare, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] J. E. DENNY,
Recorder.
By John G. Knox,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 23, A. D. 1875, at 10 o'clock and 40 minutes, P. M., and recorded in Book "D" of Mortgages, 544 et seq., Records of the County of San Bernardino, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] SYDNEY P. WAITE,
County Recorder.
By R. S. Swing,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 26, A. D. 1875, at 10 o'clock and 20 minutes, A. M., and recorded in Book No. 7 of Mortgages, pages 103 et seq., Records of the County of San Diego, in the State of California.

Witness my hand and seal of office of county recorder.
Fees, $15.

[Seal] A. S. GRANT,
County Recorder.
By E. G. Haight,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 28, A. D. 1875, at 24 minutes past 4 P. M., and recorded in Book No. 2 of Mortgages, pages 46 et seq., Records of the County of Ventura, State of California.

Witness my hand and seal of office of county recorder.
Fees, $18.

[Seal] JOHN T. STOW,
County Recorder.

Recorded at request of D. W. Parkhurst, August 3, A. D. 1875, at 1 P. M., in Liber 443 of Mortgages, page 309, in the office of the county recorder of the city and county of San Francisco, State of California.

O. H. FRANK,
County Recorder.

Recorded at request of Wells, Fargo & Co., August 20, 1880, at 20 min. past 9 A. M., in Book 1 of Mortgages, page 557 et seq., Records of Merced County.

$15.

[Seal] E. J. HAMILTON,
County Recorder.
By M. H. Walsh,
Deputy.

Recorded at request of Wells, Fargo & Co., August 23d, A. D. 1880, at 5 min. past 9 o'clock A. M., in Vol. 15 of Mortgages, at pages 139 et seq., Records of Stanislaus County.

$15 paid.

[Seal] JOHN McCOY,
Recorder.

Recorded at request of J. L. Willcutt, September 6th, 1880, at 30 min. past 10 o'clock A. M., in Liber 624 of Mortgages, page 305, in the office of the county recorder of the city and county of San Francisco, State of California.

[Seal] W. K. DIETRICH,
County Recorder.
Per Richard Blauvelt,
Deputy.

(Marked "Defendants' Exhibit before the Special Examiner No. 90, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original exhibit, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Trust Mortgage. Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees. Dated April 1, 1875. Resignation of Lloyd Tevis, and ap-

pointment of Gerrit L. Lansing. Acceptance April 18, 1883. Defendants' Exhibit before the Special Examiner No. 90. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit before the Special Examiner No. 91.

This indenture, made this 25th day of August, 1888, between the Southern Pacific Railroad Company, a railroad corporation duly organized and existing under the laws of the United States and of the State of California, party of the first part, the Southern Pacific Company, a corporation organized and existing under the laws of the State of Kentucky, and lessee of portions of the Southern Pacific Railroad, party of the second part, and the Central Trust Company of New York, a corporation created, organized and existing under the laws of the State of New York, party of the third part, witnesseth:

That whereas, the Southern Pacific Railroad Company, as it existed prior to the consolidation and amalgamation hereinafter set out, did, to secure the payment of its bonds in the sum of $46,000,000, heretofore, to wit, on the first day of April, 1875, make and execute its first mortgage on its entire line of railroad *and* then constituted, to wit, on the whole of its railroad and telegraph line running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley, and Polonio Pass, to the Colorado river at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line, between Poso creek and Kern river; also from the junc-

tion near Tehachapi Pass via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro bay, aggregating eleven hundred and fifty (1,150) miles of railroad and telegraph line, more or less, and on the several sections of land granted to said Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, as stated in said mortgage, saving, excepting, and reserving, however, all parts and parcels of said lands which had been sold or contracted to be sold or disposed of theretofore, or which were or should be included in the rights of way of said railroads and telegraph lines of said company as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

And whereas, subsequent thereto, by instrument in writing dated the fourth day of May, 1888, and pursuant to the laws of the State of California in such cases made and provided, the San Jose and Almaden Railroad Company, the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the Monterey Extension Railroad Company, the Southern Pacific Branch Railway Company, the San Pablo and Tulare Railroad Company, the San Pablo and Tulare Extension Railroad Company, the San Ramon Valley Railroad Company, the Stockton and Copperopolis Railroad Company, the Stockton and Tulare Railroad Company, the San Joaquin Valley and Yosemite Railroad Company, the Los Angeles and San Diego Railroad Company, the Los Angeles and Inde-

pendence Railroad Company, the Long Beach, Whittier and Los Angeles County Railroad Company, the Long Beach Railroad Company, the Southern Pacific Railroad Extension Company, and the Ramona and San Bernardino Railroad Company (railroad corporations organized and existing under the laws of the State of California) amalgamated and consolidated their capital stocks, debts, properties, assets, and franchises with the capital stock, debts, properties, assets, and franchises of the Southern Pacific Railroad Company of California.

And whereas, by force and effect of said amalgamation and consolidation, the said party of the first part has succeeded to all of the debts, properties, assets, and franchises of said several railroad companies, and now holds and owns the said several lines of railroad heretofore owned and held by them respectively, together with their respective properties, assets, and franchises.

And whereas, the said Pajaro and Santa Cruz Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of five hundred and thirty (530) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of January, 1885, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the first day of January, 1885, to S. T. Gage and E. B. Ryan, and covering its railroad, commencing at the town of Pajaro, in the county of Monterey, in the State of California, and extending thence to the city of Santa Cruz, in the county of Santa Cruz, in said State, with a branch line commencing at the town of

Aptos, in said county of Santa Cruz, and running thence in a northerly and northeasterly direction, following the meanders of Aptos creek to the point of confluence of said creek with the creek running from White's Lagoon, a distance of twenty-six miles, as near as may be, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Monterey Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two hundred and fifty (250) of its twenty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1880, bearing interest at the rate of five per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the ninth day of March, 1880, to Stephen T. Gage and E. B. Ryan, and covering the whole of the railroad line of said company, commencing at or near the town of Castroville, in the county of Monterey, in the State of California, and running through the county of Monterey to a point at or near the city of Monterey in said county, a distance of fifteen and four-tenths (15.4) miles, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Southern Pacific Branch Railway Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of nine thousand of its fifty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1887, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust

bearing date the twenty-fourth day of November, 1886, to William E. Brown and Gerrit L. Lansing, and covering the whole of the railroad line of the said company, commencing at a point near San Miguel, in the county of San Luis Obispo, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company, near Newhall, in said Los Angeles county, a distance of about two hundred and fifty miles, as near as may be, together with all the corporate rights pertaining to said road, its appurtenances, etc.

And whereas, the said San Pablo and Tulare Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of three thousand seven hundred and fifty (3,750) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1878, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of September, 1878, to Albert Gallatin and Charles Miller, and covering its line of railroad, constructed and unconstructed, running from a point at or near Martinez, in the county of Contra Costa, through the counties of Contra Costa, San Joaquin, Stanislaus, Merced, and Fresno, to a point at or near Los Gatos creek, a distance of one hundred and fifty (150) miles, as near as may be, with all rolling stock, appurtenances, etc.

And whereas, the said Los Angeles and San Diego Railroad Company, to aid in the construction of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two thousand eight hundred (2,800) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of July, 1880, with interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of December, 1880, to S. T. Gage and E. B. Ryan, and covering its railroad line constructed and unconstructed, from the city of Los Angeles, in a southerly direction, to the city of San Diego, in the southwestern part of the State of California, with all rolling stock, appurtenances, etc., a distance of 140 miles, as near as may be.

And whereas, there are now outstanding $530,000 of said Pajaro and Santa Cruz Railroad Company's bonds; $220,000 of said Monterey Railroad Company's bonds (the balance of $30,000 having been redeemed, canceled and retired); $3,145,000 of said Southern Pacific Branch Railway Company's bonds (the balance, $5,855,000, being unissued and in the hands of the party of the first part); $1,023,000 of said San Pablo and Tulare Railroad Company's bonds (the balance, $2,727,000, being unissued and in the hands of the party of the first part); and $556,000 of the said Los Angeles and San Diego Railroad Company's bonds (the balance, $2,244,000, being unissued and in the hands of the party of the first part).

And whereas, said mortgages and each of them are valid and subsisting liens upon the lines of railroad heretofore described, and now the property of the party of the first part.

And whereas, the owners of all the outstanding bonds heretofore issued as aforesaid by the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the San Pablo and Tulare Railroad Company, and the Los Angeles and San Diego Railroad Company are willing to surrender said bonds and permit the respective mortgages heretofore made to secure the payment thereof, and hereinbefore described, to be satisfied of record and canceled, and receive in lieu thereof new fifty-year five per cent bonds secured by this mortgage.

And whereas, the party of the first part desires and intends to redeem and take up said mortgage bonds issued by said constituent companies, to-wit, the outstanding mortgage bonds of the Pajaro and Santa Cruz Railroad Company in the sum of $530,000, the outstanding mortgage bonds of the Monterey Railroad Company in the sum of $220,000, the outstanding mortgage bonds of the San Pablo and Tulare Railroad Company in the sum of $1,023,000, and the outstanding mortgage bonds of the Los Angeles and San Diego Railroad Company in the sum of $556,000, and retire the same, and to destroy, cancel, and retire the unissued bonds of the San Pablo and Tulare Railroad Company in the sum of $2,727,000, and the unissued bonds of the Los Angeles and San Diego Railroad Company in the sum of $2,244,000 and cause said existing mortgages to be satisfied of record and canceled, and, as rapidly as the same can be done upon terms satisfactory to the party of the first part, to arrange for the redemption of the mortgage bonds issued by said Southern Pacific Branch Railway Company, and when arrangements have been made for the redemption of all of such bonds

to cause the same to be canceled, and the mortgage securing the same to be satisfied of record, and in lieu of said outstanding bonds to issue new fifty-year five per cent bonds secured by this mortgage, and said party of the first part desires and intends to pay off and discharge the floating debt incurred in the construction and completion of certain portions of its lines of railroad, and desires to complete the construction and equipment thereof, and to that end desires and intends to issue its bonds in an amount necessary to accomplish said objects and purposes, and to secure the payment thereof by mortgage upon certain of its constituent lines of railroad hereinafter more particularly described.

And whereas, heretofore, to wit, on the 21st day of August, 1888, the board of directors of said Southern Pacific Railroad Company, at a meeting of said board, at which all the members thereof were present, by a resolution to that effect, which was unanimously adopted, passed, and concurred in, did determine and direct that bonds of said company be prepared, executed, and issued in its name and under its corporate seal, and signed by its president and secretary, to bear date the first day of October, 1888, in the sum of one thousand dollars each, to the number of thirty-eight thousand, numbered from one to thirty-eight thousand, inclusive, payable to the Central Trust Company of New York, or to the bearer thereof, fifty years after date, with interest at the rate of five per cent per annum, payable semiannually, on the first days of April and October of each year ensuing its date, payable both principal and interest in United States gold coin in the city of New York.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further order and direct that said bonds should be drawn in substantially the following form, to wit:

$1,000. United States of America. $1,000.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bonds.

The Southern Pacific Railroad Company (of California) acknowledges itself indebted to the Central Trust Company of New York, or to the bearer hereof, in the sum of one thousand dollars gold coin of the United States, which sum it promises to pay to the bearer hereof, or, if registered, to the registered holder hereof, fifty years after date, and it further promises that on presentation and surrender at or after maturity of the respective interest coupons hereunto annexed, it will pay to the person presenting the same, or, if this bond is registered and the interest coupons appertaining thereto canceled, it will pay to the registered holder hereof, interest on such principal sum at the rate of five per cent per annum, semiannually, on or after the first day of April and October of each year ensuing the date hereof, both principal and interest payable at the office or agency of the company in the city of New York, in United States gold coin.

This is one of the first mortgage bonds issued under and secured by the indenture of mortgage or deed of trust from this company to the Central Trust Company of New York, trustee, dated the twenty-fifth day of August, 1888.

None of said bonds are to be in anywise binding or obligatory unless authenticated by a certificate endorsed

thereon, signed by said trustee or its successor or successors in said trust.

This bond may, at any time, upon production thereof to said railroad company, and proper endorsement being made thereon, and either with or without the surrender to said railroad company for cancellation of all unpaid interest coupons appertaining thereto, be registered upon the books of the company in the name of the holder thereof, and thereupon its transferability by delivery will cease, and thereafter it can be transferred only by the registered holder or his attorney by transfer duly made upon said books.

In witness whereof, the said Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and this bond to be signed by its president and secretary, this first day of October, one thousand eight hundred and eighty-eight.

SOUTHERN PACIFIC RAILROAD COMPANY,

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that to each of said bonds there should be attached one hundred interest coupons, numbered respectively from one to one hundred, inclusive, substantially in the following form, to-wit:

$25. (Coupon.) $25.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bond No. ——.

Interest coupon for twenty-five dollars, due ————, payable in the city of New York, in United States gold coin.

Coupon No. ——. ————,

Treasurer.

And that all such coupons should bear the impression of the engraved signature of the treasurer, which impression should be regarded and treated, in fact and in law, as equivalent to a manual signing by said officer.

And whereas, the said board of directors, at the meeting aforesaid, and in manner and form and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a mortgage upon certain of its constituent lines of railroad and telegraph and upon certain of its lands should be executed in its name and under its corporate seal, and be signed by its president and secretary, to the Central Trust Company of New York as trustee for the holders of said bonds; said mortgage to cover the railroad and telegraph line, rolling stock, stations, fixtures, and franchises held, owned, and possessed by it in the following constituent lines of railroad, all lying within the State of California:

First.—Running from Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—Running from Pajaro, in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Ap-

tos, in said Santa Cruz county, northerly and northeasterly, about five miles, being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—Running from a point at or near Castroville Station in Monterey county to a point at or near Monterey in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of the Carmel river—an estimated length of thirty-one and twelve-hundredths (31.12) miles.

Fourth.—Running from a point near San Miguel in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—Running from a point near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; running thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin division of the railroad of the party of the first part at or near Pampa, in the county of Kern, a distance of two hundred and sixty miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—Running from a point at or near Avon in Contra Costa county to a point on the Central Pacific Railroad at or near Pleasanton, in the county of Alameda, a distance of thirty-five (35) miles, more or less.

Seventh.—Running from a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare, to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with branches connecting with the Central Pacific Railroad to or near Modesto in Stanislaus county, a distance of sixteen (16) miles, more or less, to or near Merced, in Merced county, a distance of ten (10) miles, more or less, to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, with a branch to or near Tulare in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—Running from Berenda Station, in Fresno county, to a point at or near Perry's Ranch in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—Running from a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through the counties of Los Angeles and San Diego, to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—Running from a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—Running from a point at or near Long Beach, in Los Angeles county, to Whittier, thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part, between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—Running from a point at or near Long Beach Junction, in Los Angeles county, to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos, in said county—a distance of four (4) miles, more or less.

Thirteenth.—Running from a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands—all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—Running from a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—Running from the city of San Francisco, in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to Yuma, in the county of San Diego; and also from Los Angeles to Wilmington on San Pedro bay—aggregating nine hundred and eight miles of railroad and telegraph line, or thereabouts.

And also to cover the lands granted to the Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, above referred to, not sold or contracted to be sold or disposed of prior to the execution of this mortgage, or included in the right of way of the railroads and telegraph lines of the said company, or used or to be used for the construction or operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

And whereas, said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds by setting apart the sum of twenty thousand dollars of the net income derived by said company from the constituent lines of railroad herein mortgaged in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested, under the order and direction of said board

of directors, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as the board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids to be accepted, and bonds redeemed to the extent of the money in the sinking fund.

And whereas, the Southern Pacific Company, party of the second part herein, and lessee of certain portions of the railroads of the party of the first part affected by this mortgage, has been in writing notified and informed of this mortgage and has, in writing, by order of its board of directors, given its consent thereto, and as an evidence of such consent has become a party hereto:

Now, therefore, this indenture witnesseth, that the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the sum of one dollar to the said party of the first part in hand paid by the party of the third part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed, and confirmed and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm, unto the said party of the third part, as trustee, and to its successors and assigns forever, the following property, now and hereafter constructed, purchased, acquired, held in possession, and owned by said party of the first part, to wit:

Its constituent lines of railroad lying within the State of California, and running:

First.—From Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—From Pajaro in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Aptos, in said Santa Cruz county, northerly and northeasterly, about five (5) miles—being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—From a point at or near Castroville Station, in Monterey county, to a point at or near Monterey, in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of Carmel river—an estimated length of thirty-one and twelve hundredths (31.12) miles.

Fourth.—From a point near San Miguel, in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—From a point at or near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin Division of the railroad of the party of the first part, at or near Pampa, in the

county of Kern, a distance of two hundred and sixty (260) miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—From a point at or near Avon, in Contra Costa county, to a point on the Central Pacific Railroad, at or near Pleasanton, in the county of Alameda, a distance of thirty-five miles, more or less.

Seventh.—From a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with a branch connecting with the main line of the Central Pacific Railroad to or near Modesto, in Stanislaus county, a distance of sixteen (16) miles, more or less, a branch to or near Merced, in Merced county, a distance of ten (10) miles, more or less, a branch to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Tulare, in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—From Berenda Station, in Fresno county, to a point at or near Perry's ranch, in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—From a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through

the counties of Los Angeles and San Diego to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—From a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—From a point at or near Long Beach, in Los Angeles county, to Whittier; thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—From a point at or near Long Beach Junction in Los Angeles county to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos in said county—a distance of four (4) miles, more or less.

Thirteenth.—From a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands—all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—From a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—From the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to Yuma, in the county of San Diego; also from Los Angeles to Wilmington on San Pedro bay, aggregating nine hundred and eight (908) miles of railroad and telegraph line, or thereabouts.

Including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering places, sidetracks, turnouts, turntables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, equipments, fixtures, tools, telegraph lines, and all other property which may now or hereafter be acquired for the purpose of operating the constituent lines of railroad hereby mortgaged, including all of the said property which now is or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to that portion of the said lines of railroad hereby mortgaged, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues, and prof-

its thereof, with all the rights, titles, interest, estate, property, succession, claim, and demand, in law or equity, of the said party of the first part, of, in, and to the same, or any part or parcel thereof.

Also, all and singular the several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever, at law or in equity, of, in, or to the same, or any part or parcel thereof, which said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, own, or be or become entitled to, by force or virtue of the said acts of Congress, saving, excepting, and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction and operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

To have and to hold the above granted and described premises, property, and franchises, with the appurtenances, unto the said party of the third part, and to its successors duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies politic or corporate, who shall have become or be from time to time holders of the said first mortgage bonds secured hereby, or any of them.

Provided always, and these presents are upon the express condition, that if the said party of the first part, or its successors, shall well and truly pay or cause or pro-

cure to be paid unto the holders, from time to time, of said bonds and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner, set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and the property, estate, rights, franchises, and privileges herein and hereby granted and conveyed shall cease, determine, and be void.

Until default shall be made by the said party of the first part, its successors and assigns, in the payment of the principal or interest of the said bonds, or some of them or some part thereof as hereinafter provided, the said party of the first part, its successors and assigns, shall be suffered and permitted to possess and enjoy the said premises, with their appurtenances, and all and singular the rights and franchises hereinbefore described, and to receive, take, and use the tolls, income, earnings, and profits thereof, and the trustee or trustees hereunder shall have full power in its or their discretion, upon written request of the party of the first part, its successors or assigns, to convey by way of release or otherwise, and fully release from the lien of this mortgage, any lands or other property of any description (except only the lands granted by acts of Congress, as hereinbefore prescribed) which in its or their judgment shall not be necessary for or for use in connection with the said railroads, and to consent to such changes in the location of tracks, depots, and other buildings as in its or their judgment may be expedient, and to make and deliver the releases and conveyances necessary to carry the same into effect, but any

lands or other property which may be acquired for permanent use in substitution for any so released or conveyed shall thereupon become subject to the lien of this mortgage, and upon request of the trustee or trustees hereunder shall be conveyed to it or them by the party of the first part, its successors or assigns, upon the trusts of these presents.

But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid according to the terms of said bonds, then the said party of the third part, or its successor in said trust, by itself or its agents or servants in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds then outstanding, on which the interest or principal shall be and have so remained in default as aforesaid, enter into and upon and take possession of all, or in its or their discretion any part of, the said constituent lines of railroad hereby mortgaged, and work and operate the said constituent lines of railroad, and receive the income, receipts, and profits thereof and out of the same pay:

First, the expense of running and operating the same, including therein reasonable counsel fees and such reasonable compensation as it may allow to the several persons employed or engaged in the running and superintendence of the same.

Second, the expense of keeping the said roads, the appurtenances, the locomotives, and the rolling stock

thereof in good and sufficient repair to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof.

And third, pay, as far as the same will suffice, all interest and principal, if any, which may be due on said bonds, and in case of any deficiency apply the said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind.

Or the said party of the third part may, in case of default as aforesaid, and upon request as aforesaid, foreclose this mortgage, and sell and dispose of according to law, all of the constituent lines of railroad hereby mortgaged, together with all of the rights, property, privileges, franchises, real and personal, connected therewith or pertaining thereto, that are subject to this mortgage, with the appurtenances herein and hereby granted, or so much as may be necessary, and out of the money arising from such sale, pay:

First, the cost and charges and expenses of the foreclosure and sale.

Second, any expenses, costs and charges of the execution of the trust, previously incurred and remaining unpaid.

And third, distribute the residue of said proceeds among the holders of said bonds and coupons in proportion to their several interests until all have been paid in full, principal and accrued interest.

If any default shall be made in the payment of interest on any of said bonds for six months after demand at the

place of payment, when the same shall become due, then the said trustee may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and take possession of any of the lands above conveyed, and foreclose this mortgage thereon, and may sell at public auction upon like notice as hereinafter prescribed so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the cost, charges, and expenses of such entry, foreclosure, and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and thereupon or upon default in the payment of the principal of such bonds at their maturity, the said trustee may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage thereon, and sell at public auction all said lands, or so much thereof as may be necessary, first giving at least six months' previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles, and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges, and expenses of such last-mentioned entry, foreclosure, and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part.

In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute, and deliver a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any foreclosure proceedings shall be commenced, for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustee, and pay all the costs, charges, and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustee shall discontinue its proceedings thereon, and restore to said party of the first part all of such lands, to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms, and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced.

All lands granted or conveyed under the acts of Congress hereinbefore referred to and in anywise covered or affected by the provisions hereof shall be subject to the express provision that if, and so long as the bonds issued under and secured by the said indenture of mortgage to D. O. Mills and Lloyd Tevis, dated April 1, 1875, or any thereof shall remain outstanding, any and all sales made in the manner in said last-mentioned indenture of mortgage prescribed shall absolutely and forever release the

said lands from any and all lien or encumbrance of, under, or in respect of this mortgage or the bonds issued thereunder; and if and when all the bonds issued under said indenture of mortgage of April 1, 1875, shall have been fully satisfied and discharged and the lien of such last-mentioned indenture of mortgage upon such lands fully released, then the said lands, so far as they remain unsold at that time, shall be subject to the like provisions in respect to sale and conveyance, and release from the lien of this mortgage, as are in said mortgage of April 1, 1875, prescribed in respect to sale, and conveyance, and release from the lien thereof.

This indenture further witnesseth, that said party of the first part hereby agrees and covenants to and with said party of the third part that it will create a sinking fund for the redemption and payment of said bonds, by setting apart the sum of twenty thousand dollars of the net income derived by it from the constituent lines of railroad herein mortgaged, in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested under the order and direction of the board of directors of the party of the first part, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as said board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids

to be accepted and bonds redeemed to the extent of the money in the sinking fund.

And this indenture further witnesseth, that the said party of the first part hereby agrees and covenants to and with the said party of the third part, and its successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be legally imposed upon the property herein described and hereby mortgaged and every part thereof, and the said party of the third part, or its successors in said trust, or any one or more of the holders of said bonds, may, in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon prior to these presents, or to which this mortgage may be subject or subordinate, and, for all payments thus made, the parties so making the same shall be allowed interest thereon at the rate of six per cent per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money wherein they shall have been paid, and the same shall be payable by said party of the first part to said party of the third part, upon demand, in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

And this indenture further witnesseth, that the said party of the first part further covenants and agrees to

and with the said party of the third part, and its successors in said trust, that it will at any and all times hereafter, upon the request of the said party of the third part, execute, acknowledge, and deliver to the said party of the third part and its successors in said trust all and every such further necessary and reasonable conveyances and assurances of the said premises, or any part thereof, as may by the party of the third part or its successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance.

And the said party of the third part and its successors in said trust shall be entitled to receive a just and proper compensation for all services rendered by it or them in the discharge of said trust, and the same shall be deemed to be secured hereby. And it is hereby stipulated and agreed that the said party of the third part and its successors in said trust shall not be responsible for the acts or omissions of any agent or agents employed by it or them in any manner in and about the execution of the trust hereby created, when such agent or agents are selected with reasonable discretion, or with the approbation or with the knowledge and without the express disapprobation of said party of the first part.

This indenture further witnesseth, that should the said party of the third part for any reason fail, refuse, or become incompetent to discharge the duties or trusts herein conveyed to, imposed on, and accepted by it, then and in that event the board of directors of the party of the first part shall nominate and appoint a successor or successors to said party of the third part, which said suc-

cessor or successors shall be vested with the same properties, and clothed with the same powers, rights, and duties, and be subject to the same obligations, as the said party of the third part named herein, as fully as though he, they, or it had been named herein as such trustee or trustees.

And this indenture further witnesseth, that the party of the first part hereby agrees to take up, pay off, discharge, and retire the outstanding bonds of the Pajaro and Santa Cruz Railroad Company in the sum of five hundred and thirty thousand dollars ($530,000), the outstanding bonds of the Monterey Railroad Company in the sum of two hundred and twenty thousand dollars ($220,000), the outstanding bonds of the San Pablo and Tulare Railroad Company in the sum of one million and twenty-three thousand ($1,023,000) dollars, and the outstanding bonds of the Los Angeles and San Diego Railroad Company in the sum of five hundred and fifty-six thousand ($556,000) dollars, and to destroy, cancel, and retire all of said bonds unissued and in its hands, and cause said existing mortgages to be satisfied of record and canceled, and to take up said outstanding bonds with the new fifty-year five per cent bonds to be issued under this mortgage, upon such terms as may be agreed upon, said redemption and cancellation and satisfaction to be made without unnecessary delay.

It is further provided, covenanted, declared, and agreed that the party of the third part and its successors in the trust hereby created is and are from time to time to authenticate and certify as issued hereunder, and de-

liver to the party of the first part, its successors or assigns, first mortgage bonds in the form or substantially the form above prescribed, to amounts which shall aggregate, but shall not exceed, twenty-two thousand five hundred dollars par value of such bonds per mile for each mile of road constructed or acquired by the said party of the first part, its successors or assigns, and described in the foregoing thirteen subdivisions hereof, designated from "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, and for twenty-five miles in addition thereto, and to further amounts not exceeding seven thousand five hundred dollars per mile, additional thereto, for expenses and disbursements incurred in and about double tracking, masonry, iron bridges, rolling stock, or other betterments or improvements either to the permanent way, local or terminal facilities, or rolling stock. The said party of the third part, and its successors in the trust hereby created, is and are also from time to time to authenticate and certify as issued hereunder, and deliver to the party of the first part, its successors and assigns, additional first mortgage bonds in the form or substantially the form above prescribed, to the amounts to which bonds of the Southern Pacific Branch Railway Company issued or to be issued under and secured by the mortgage of November 24, 1886, hereinbefore referred to, shall have been deposited with the trustee hereunder.

All bonds so deposited with the trustee hereunder shall be held as collateral security for the bonds issued under this mortgage until all of the bonds issued under

and secured by such mortgage of the Southern Pacific Branch Railway Company shall have been so deposited, whereupon such deposited bonds shall be canceled and the mortgage securing the same shall be satisfied of record. While such Southern Pacific Branch Railway Company's bonds remain so on deposit with the trustee, neither such bonds nor the coupons appertaining thereto shall be required to be paid unless proceedings shall be taken for the foreclosure of the mortgage securing the same, in which case all the bonds and coupons which shall have been so deposited with the trustee shall be entitled to share for the benefit of the bonds issued under this mortgage, on equal terms with the other bonds issued under and secured by said Southern Pacific Branch Railway Company mortgage.

When said Southern Pacific Branch Railway Company mortgage shall have been satisfied of record, the party of the first part, its successors and assigns, shall be entitled from time to time to receive from the trustee hereunder, duly authenticated as issued under and secured by this mortgage, bonds in respect of the line described in the foregoing subdivision "Fourth" hereof, on the mileage basis of $22,500 and $7,500, as above prescribed, in respect of the lines described in subdivisions "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, due allowance being made on the basis of $30,000 per mile for the bonds theretofore issued against deposit of said Southern Pacific Branch Line bonds.

Authenticating certificates to such bonds are to be

signed, and deliveries thereof to be made, by the trustee under this mortgage from time to time upon presentation to it of certificates, in writing, executed by the president and chief engineer of the party of the first part, or its successors, reciting the facts authorizing delivery of such bonds hereunder, and without other evidence or proof of such facts; provided, however, that, notwithstanding anything herein contained, the party of the first part, or its successors, may at any time or from time to time, require the party of the third part or its successors to authenticate and certify hereunder and deliver to said party of the first part, its successors or assigns, and permit the sale of such amount or amounts of such bonds as the party of the first part or its successors may think fit; provided, that the proceeds of any such bonds issued in excess of the limits hereinabove prescribed shall be received by the trustee or trustees hereunder, and not by the party of the first part or its successors or appointees, and shall be disbursed by said trustee or trustees to the party of the first part or its successors or appointees, only pro rata as and when the party of the first part or its successors would have been entitled to receive such bonds under the foregoing provisions hereof; and provided, further that the total amount of bonds issued under or secured by this deed of trust is not in any event to exceed for all purposes herein mentioned the aggregate sum of thirty-eight million dollars.

In witness whereof, the said Southern Pacific Railroad Company, the party of the first part, has caused these

presents to be signed in its name by its president, and attested by its secretary, and sealed with its corporate seal.

SOUTHERN PACIFIC RAILROAD COMPANY,
By CHAS. F. CROCKER,
President.

Attest:
[Seal] J. L. WILLCUTT,
Secretary.

The Southern Pacific Company, party of the second part, the lessee of portions of the said Southern Pacific Railroad affected by the foregoing instrument, does hereby consent thereto, and hereby waives any and all objection it might or could have to the execution thereof, or to the issuance of the bonds therein provided for; provided that nothing in this consent or assent contained shall be construed as a grant of any of the property rights of said Southern Pacific Company, or of its franchises, to the mortgagee or trustee named herein.

In testimony whereof, said Southern Pacific Company has caused these presents to be signed in its name by its third vice-president and attested by its secretary, and its corporate seal to be hereunto affixed, this 25th day of August, 1888.

SOUTHERN PACIFIC COMPANY,
By CHAS. F. CROCKER,
Third Vice-President.

Attest:
[Seal] G. L. LANSING,
Secretary.

The Central Trust Company of New York, party of the third part to the foregoing mortgage or deed of trust, hereby accepts the trust created and declared in and by the foregoing instrument, and agrees to discharge the same pursuant to the provisions in that behalf therein contained.

In testimony whereof, said Central Trust Company of New York has caused these presents to be signed in its name by its second vice-president, and attested by its assistant secretary, and its corporate seal to be hereunto affixed, this seventh day of September, 1888.

CENTRAL TRUST COMPANY OF NEW YORK,

By E. FRANCIS HYDE,

Second Vice-President.

Attest:

[Seal] B. G. MITCHELL,

Asst. Secretary.

State of California,
City and County of San Francisco. } ss.

I, J. F. Kingwell, a notary public in and for the city and county of San Francisco, State of California, residing in said city and county, duly commissioned and sworn, do certify that on the 25th day of August, A. D. 1888, personally appeared before me, in said city and county, Charles F. Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individ-

uals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally then and there acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being duly sworn, did depose and say: That he resides in the city of Oakland, county of Alameda, and State of California; that he is and was the secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of execution of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and was by him so affixed by order of the board of directors of said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was acquainted with Charles F. Crocker, and knows that said Charles F. Crocker is and was president of the Southern Pacific Railroad Company at the date and execution of said instrument; that the signature of the said Charles F. Crocker subscribed to said instrument is in the genuine handwriting of the said Charles F. Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] J. F. KINGWELL,
Notary Public in and for the City and County of San Francisco, California.

State of California,
City and County of San Francisco. } ss.

On this twenty-fifth (25) day of August, in the year one thousand eight hundred and eighty-eight (1888), before me, J. F. Kingwell, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Chas. F. Crocker, known to me to be the 3rd vice-president of the Southern Pacific Company, and G. L. Lansing, known to me to be the secretary of the Southern Pacific Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 25th day of August, A. D. 1888.

[Seal] J. F. KINGWELL,
Notary Public in and for the City and County of San Francisco, State of California.

State of New York,
City and County of New York. } ss.

On this 7th day of September, in the year 1888, before me, Charles Edgar Mills, a commissioner of the State of California, in and for the State of New York, residing in said city of New York, personally appeared E. Francis Hyde and Benjamin G. Mitchell, known to me to be the second vice-president and assistant secretary of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this 7th day of September, A. D. 1888.

[Seal] CHARLES EDGAR MILLS,
Commissioner for California in New York, 115 and 117 Broadway, N. Y. City.

[Endorsed]: Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Deed of trust. Dated August 25, 1888.

Recorded at the request of H. D. La Motte, Oct. 2nd, A. D. 1888, at 30 minutes past 4 P. M., in liber No. 21 of Mortgages, page 10, Records of San Mateo Co., Cal.

E. EIKERENKOTTER,
Recorder.
By Claude Fox,
Deputy Recorder.

Recorded at request of H. D. La Motte, in Book 84 of Mortgages, page 319 et seq., Oct. 3d, 1888, at 14 min. past 9 o'clock A. M., Records of Santa Clara Co., Cal.

Pd. $19.

CHAS. P. OWEN,
County Recorder.

Filed for record at the request of H. D. La Motte, Oct. 3, A. D. 1888, at 1 o'clock P. M., and recorded in Vol. 1 of Trust Deeds, page 123, San Benito County Records.

Pd. $19.

R. SHAW,
Recorder.
By Robt. Shaw,
Deputy Recorder.

Filed for record at the request of H. D. La Motte, Oct. 4, A. D. 1888, at 9 o'clock A. M., and recorded in Vol. 54 of Mortgages, page 83, Oct. 4, 1888, Santa Cruz County Records.

Paid, $19.

ED. MARTIN,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 4th, 1888, at —— minutes past 2 P. M., in Record A of Trust Deeds, page 409, Monterey County, Cal.

Recorder's fees, $19.

DAVID WALLACE,
County Recorder.

Recorded at request of H. D. La Motte, Oct. 6, 1888, at 30 minutes past 8 o'clock A. M., in Book "P" of Mortgages, at page 513 et seq., San Luis Obispo County Records.

$18.50.

[Seal]

F. E. DARKE,
Recorder.
By F. E. Darke, Jr.,
Deputy.

Recorded at request of H. D. La Motte, at 25 min. past 10 A. M., Oct. 8, 1888, in Book W of Mortgages, page No. 1, Records of Santa Barbara County, Cal.

Pd. $18.50.

C. A. STUART,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 9th, A. D. 1888, at 8 min. past 9 o'clock A. M., in Book 11 of Mortgages, page 56, Records of Ventura Co., Cal.

$16.75, pd.

L. F. EASTIN,
County Recorder.
By Fred. Hund,
Deputy Recorder.

Recorded at request of H. D. La Motte, Oct. 10, 1888, at 48 min. past 8 A. M., in Book 179, page 74 of Mortgages, Los Angeles County Records.

Fees, $12.90.

FRANK A. GIBSON,
County Recorder.
By Arthur Bray,
Deputy.

Recorded at request of H. D. La Motte, Oct. 11, 1888, at 8 min. past 8 A. M., in Book 11 of Mortgages, page 129, Records San Bernardino County.

$18.50, paid.

LEGARE ALLEN,
County Recorder.
By Gordon G. Ives,
Deputy Recorder.

Received for record Oct. 12, 1888, at 9 o'clock A. M., at request of H. D. La Motte, and recorded in Book No. 43 of Mortgages, page 1 et seq., San Diego Co., Cal.

Fees.....$23.50, pd.
Comparing. 3

26.50, pd.

E. G. HAIGHT,
County Recorder.
By B. F. Moore,
Deputy.

Recorded at request of H. D. La Motte, Oct. 13th, 1888, at 25 min. past 9 o'clock A. M., in Book 8 of Mortgages, page 376, Records of Kern County.

Fees, $20.00, paid.

N. R. PACKARD,
County Recorder.
By F. A. Shedd,
Deputy.

Recorded at request of H. D. La Motte, at 43 min. past 7 A. M., October 15th, 1888, in Vol. 4 of Trust Deeds, page 446 et seq., Records of Tulare County, Cal.

Fees, $20.00, pd.

W. F. THOMAS,
County Recorder.

Recorded at request of H. D. La Motte, at 45 min. past 1 P. M., Oct. 15th, 1888, in Vol. 86 of Deeds of Fresno County Records, pp. 195 et seq.

$20.

C. L. WAINWRIGHT,
Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 40 min. past 8 A. M., in Book "P" of Mortgages, page 106, Records of Merced County.

$20.00, paid.

J. G. ELLIOTT,
County Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 25 min. past 1 P. M., in Liber 35, Deeds of Trust, page 65, Records of Stanislaus County.

Fee, $10.50.

C. S. ABBOTT,
County Recorder.
By E. E. Howard,
Deputy.

Recorded at the request of H. D. La Motte, October 17th, 1888, at 40 minutes past 12 o'clock M., in Book "X" of Mortgages, page ——, Calaveras County Records.

$20.00.

A. L. WYLLIE,
Recorder,
By Edw. Casey,
Deputy.

Recorded at request of H. D. La Motte, October 18th, 1888, at 35 min. past 10 o'clock A. M., in Book "A," Vol. 64, page 458 of Deeds, San Joaquin County Records.

$20.00, paid.

[Seal]

J. F. MOSELEY,
County Recorder.
By G. E. Housken,
Deputy.

Recorded at request of H. D. La Motte, October 18th, A. D. 1888, at 30 min. past 4 P. M., in Vol. 54 of Deeds, page 267, Records of Contra Costa County.

$17.50, pd.

C. S. COUSINS,
County Recorder.
By A. E. Dunkel,
Deputy Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 24, 1888, at 45 min. past 9 o'clock A. M., in Liber 1320 of Deeds, page 85.

A. T. SPOTTS,
County Recorder.
By C. H. McCourtney,
Deputy.

Recorded Oct. 26th, 1888, at 46 min. past 3 P. M., in Liber 302 of Mortgages, page 1, Records of Alameda County.

F. D. HINDS,
County Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 27th, 1888, at 25 min. past 10 o'clock A. M., in Liber 890 of Mtgs., page 283.

A. T. SPOTTS,
County Recorder.

State of California,
City and County of San Francisco. } ss.

I, Alexander Russell, county recorder, do hereby certify that the annexed is a whole, true, and correct copy of an original record, as will appear by reference to book 1320 of Deeds, page 85 (and 890 Mtges, 283), now in my office, and that said copy has been compared with the original and is a correct transcript therefrom.

Witness my hand and official seal this sixth day of March, A. D. 1889.

(Signed) ALEXANDER RUSSELL,
County Recorder.

Per M. Warschauer,
Deputy.

[Seal Recorder's Office, City and County of San Francisco, Cal.]

(Marked "Defendants' Exhibit before the Special Examiner No. 91, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original exhibit, and find it to be a full, true and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Deed of trust. Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Dated August 25, 1888. Defendants' Exhibit before the Special Examiner No. 91. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 92.

(8-106.)

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., October 24, 1889.

Sir: Your favor of the 16th instant, containing stated enclosures of report on Form 8-008 A for the year ending June 30, 1889, for the Southern Pacific Railroad Company is received, for which please accept thanks.

Very respectfully,

W. M. THOMPSON,
In charge of office.

To G. L. Lansing, Esq., Controller Southern Pacific Co.,
San Francisco, Cal.

(16032-500.)

(Marked Defendant's Exhibit before the Special Examiner No. 92, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 92. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 93.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., October 21, 1890.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Railroad Company, San Francisco, Cal.

Dear Sir: I have to acknowledge receipt of your letter of the 8th instant, together with reports on Form 8-008A for the year ending June 30, 1890, for the Central Pacific, Oregon and California and the Southern Pacific Railroad Companies. Also report on Form 8-002B for the Central Pacific Railroad Company for the half year ending June 30, 1890.

Very truly yours,

W. M. THOMPSON,
In charge of office.

(Marked "Defendants' Exhibit before the Special Examiner No. 93, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 93. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 94.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., October 21, 1891.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Company, San Francisco, Cal.

Dear Sir: I have to acknowledge the receipt of your letter of the 9th instant, inclosing reports as follows:

Central Pacific R. R. Co., for half year ending June 30, 1891, Form B.

Central Pacific R. R. Co., for year ending June 30, 1891, Form A.

Oregon and California R. R. Co., for year ending June 30, 1891, Form A.

Southern Pacific R. R. Co. of Cal., for year ending June 30, 1891, Form A.

Very truly yours,

W. M. THOMPSON,
Bookkeeper.

(Marked "Defendants' Exhibit before the Special Examiner No. 94, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 94. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 95.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., September 28, 1892.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Company, San Francisco, Cal.

Dear Sir: I have to acknowledge the receipt of your letter of the 19th instant, transmitting reports on Form 8-008A for the year ending June 30, 1892, for the Southern Pacific Railroad Company of California, and the Oregon and California Railroad Company.

Very truly yours,

W. M. THOMPSON,
Bookkeeper.

(Marked "Defendants' Exhibit before the Special Examiner No. 95, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 95. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 96.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., September 16, 1893.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Company, San Francisco, Cal.

Sir: The annual report of the Southern Pacific Railroad Company of California, on our Form 8-008A, for the year ending June 30, 1893, has been received.

Very respectfully,

F. E. STORM,
Bookkeeper.

(Marked "Defendants' Exhibit before the Special Examiner No. 96, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 96. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner, "L."

Directors' Meeting.

August 12, 1873.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held on Tuesday, August 12, 1873, at 2 o'clock P. M.

Present: Directors D. D. Colton, Robt. Robinson, Chas. Mayne, S. T. Gage, and J. L. Willcutt.

Absent: Directors C. P. Huntington and E. H. Miller, Jr.

In the absence of the president and vice-president on motion, duly seconded, Chas. Mayne was called to the chair.

The record of proceedings of the last meeting of the board was read and approved.

The secretary presented the certificate of election—at the annual meeting held on the 11th inst.—which, on motion, was received and ordered to be placed on file.

The board then proceeded to the election of officers, with the following result:

Officers elected. C. P. Huntington was elected president. David D. Colton was elected vice-president. E. H. Miller, Jr., was elected treasurer. J. L. Willcutt was elected secretary.

Whereupon the chair was vacated, and, in the absence of the president, D. D. Colton presided as vice-president of the board.

The following resolution was offered by Robt. Robinson, and being duly seconded, was adopted by a unanimous vote:

Resolution to consolidate with the S. P. branch R. R.

Resolved, that this corporation do consolidate with the Southern Pacific Branch Railroad Company upon the terms and conditions set forth in the articles of association, amalgamation and consolidation now herewith presented, which are hereby approved, and the vice-president (in the absence of the president) and secretary of this company are hereby authorized and required to subscribe the name of this corporation to said articles and affix its corporate seal thereto, and deliver said articles as the act and deed of this corporation.

Thereupon the vice-president and secretary executed the said articles of association, amalgamation and consolidation and the corporate seal of the company was thereto affixed.

No other business appearing before the board, the foregoing minutes were read and approved, whereupon the meeting adjourned "sine die"—it first having been ordered that the articles referred to be engrossed upon these minutes.

(The articles of consolidation with the S. P. Branch R. R., unexecuted, are then set out, but are omitted in accordance with the stipulation of counsel from this copy.)

(Signed) J. L. WILLCUTT,
Secretary.

Director's Meeting.

August 19, 1873.

The board of directors named in article third of the articles of association, amalgamation, and consolidation of a new corporation under the name and style of the Southern Pacific Railroad Company, to wit: C. P. Huntington, D. D. Colton, Robert Robinson, Chas. Mayne, S. T. Gage, E. H. Miller, Jr., and J. L. Willcutt, met at the office of the company on Tuesday August 19th, 1873, at 2 P. M., for the purpose of organizing as a board by the election of the necessary officers for the ensuing year.

Present: D. D. Colton, Robert Robinson, Charles Mayne, S. T. Gage, and J. L. Willcutt.

Absent: Directors C. P. Huntington, and E. H. Miller, Jr.

On motion, Chas. Mayne was called to the chair and J. L. Willcutt appointed temporary secretary.

The articles of association, amalgamation, and consolidation were thereupon presented and read and ordered to be engrossed upon the minutes of the meeting. Following is a copy.

(The articles of association, amalgamation, and consolidation, as executed, are then set out, but are omitted from this in accordance with the stipulation of counsel.)

Officers of new corporation, elected.

The Board then proceeded to the election of officers with the following result: C. P. Huntington was elected president; David D. Colton was elected vice-president; E. H. Miller, Jr., was elected treasurer; J. L. Willcutt, was elected secretary.

Bonds of Treasurer and Secretary.

The bond of E. H. Miller, J., was presented in the sum of $50,000, with Leland Stanford and Mark Hopkins sureties thereon, and in like manner the bond of J. L. Willcutt, the secretary, in the sum of $20,000, with H. M. Newhall and Chas. Mayne sureties thereon, and on motion duly seconded were accepted and approved as the official bonds of said treasurer and said secretary and ordered to be placed on file.

No other business appearing before the board, and the foregoing minutes having been duly read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

April 10th, 1874.

A meeting of the board of directors of the Southern Pacific Railroad Co. was held at the office of the company on Friday, the 10th day of April, A. D. 1874, at 2 o'clock P. M., pursuant to the call of the vice-president.

Present: Directors D. D. Colton, Robert Robinson, E. H. Miller, Jr., S. T. Gage, and J. L. Willcutt, vice-president, D. D. Colton, presiding.

Absent: Directors C. P. Huntington and Chas. Mayne.

The record of proceedings of the last meeting of the board were read and approved.

The following resolution was offered by Robert Robinson, and being duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road from San Fernando to Los Angeles thence to Spadra, Map "AA."

Resolved, that the line of railroad as it has been surveyed and laid out on map marked "AA" and described as follows: Commencing at a point in the northwest quarter of section 3, township 2 north, range 15 west, San Bernardino base and meridian, and running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction to a point in the northeasterly quarter of section 27, township 1 south, range 9 west, San Bernardino base and meridian—being map and profile of section No. 1, Southern Pacific Railroad and Telegraph Line—authorized by the 23d section of the Texas Pacific Railroad Act—approved March 3d, 1871, be and the same is hereby adopted as the route of said railroad between the points named.

The following resolution was offered by E. H. Miller, Jr.,—and on motion duly seconded was adopted by a unanimous vote:

Vice-President and Secretary authorized to sign Deeds.

Resolved, that in the absence of the presi- of this company, who resides in New York, the vice-president and secretary be, and they are hereby, authorized to sign deeds of any and all town lots or lands sold by the Southern Pacific Railroad Company, and affix the seal of said company thereto as the act and deed of said company.

No further business appearing before the board, and the foregoing minutes having been read and approved on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

September 8th, 1874.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, September 8th, 1874, pursuant to the by-laws, Vice-president Chas. Crocker presiding.

Present: Directors Chas. Crocker, Robert Robinson, E. H. Miller, Jr., S. T. Gage, and J. L. Willcutt.

Absent: Directors C. P. Huntington and D. D. Colton.

The record of proceedings of the last meeting of the board was read and approved.

The following resolution was offered by Robert Robinson, and being duly seconded was adopted by a unanimous vote:

Resolution adopting line of road from 40th to 60th mile southeasterly from Goshen, Map "D."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "D," and described as follows: Commencing at a point at the end of the 40th mile on the line south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley branch of the Central Pacific Railroad, said point of commencement being in the northwest quarter of section two, township twenty-five

south, range twenty-five east, Mount Diablo base and meridian; running thence in a southeasterly direction, and ending at the termination of the 20th mile therefrom in the northeast quarter of section nine, township twenty-eight south, range twenty-six east, Mount Diablo base and meridian, be and the same is hereby adopted as the route of said railroad between the points named.

Completion of same Reported.

The Contract and Finance Company reported the completion of the section of road referred to in the foregoing resolution and asked the acceptance of same, whereupon the following resolution was offered by E. H. Miller, Jr., and on motion duly seconded was adopted by a unanimous vote:

Resolution to accept completed road.

Resolved, that the company accepts the twenty miles of railroad and telegraph line completed by said Contract and Finance Company, and that the proportion of stock and bonds which said Contract and Finance Company are entitled to receive under their contract of May 1, 1871, be, and the same is hereby, ordered to be issued and delivered to said Contract and Finance Company and a proper receipt taken therefor and filed as a voucher for such payment.

The following resolution was offered by Robert Robinson and being duly seconded was adopted by a unanimous vote:

Resolution adopting line of road from Carnadero to Soledad "AAA."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "AAA" and described as follows: Commencing at a point where the Pajaro Branch of the Southern Pacific Railroad intersects the main line of said railroad at Carnadero Station (2.2 miles southerly from Gilroy); thence southerly, via Pajaro and Salinas, to a point on the northerly bank of the Salinas river near the town of Soledad—a distance of 60.4 miles from said point of commencement—be, and the same is hereby, adopted as the route of said railroad between the points named.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

October 1st, 1874.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Thursday, October 1st, A. D. 1874, at 2 o'clock P. M., pursuant to call of Directors Chas. Crocker, D. D. Colton, and Robert Robinson—Vice-president, Chas. Crocker presiding.

Present: Directors Chas. Crocker, D. D. Colton, Robert Robinson, E. H. Miller, Jr., S. T. Gage, and J. L. Willcutt.

Absent: Director C. P. Huntington.

The following resolution was offered by Robert Robinson, and, being duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road from 60th to 73.65th mile south from Goshen. Map "E."

Resolved, the line of the railroad as it has been surveyed and laid out on map marked "E," and described as follows: Commencing at a point at the end of the 60th mile on the line south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Railroad, said point of commencement being in the northeast quarter of section nine, township 28 south, range twenty-six east, Mount Diablo base and meridian; running thence in a southeasterly direction a distance of thirteen

and 65-100ths miles, be, and the same is, hereby adopted as the route of said railroad between the points named.

Completion of same reported.

The Contract and Finance Company having reported the completion of the road referred to in the foregoing resolution, and asked the acceptance of same, the following resolution was offered by S. T. Gage, and, being duly seconded, was adopted by a unanimous vote:

Resolution to accept completed road.

Resolved, that the company accept the thirteen and 65-100 miles of railroad and telegraph line completed by said Contract and Finance Company, and that the proportion of stock and bonds which said Contract and Finance Company are entitled to receive under their contract of May 1, 1871, be, and the same is hereby, ordered to be issued and delivered to said Contract and Finance Company, and a proper receipt taken therefor and filed as a voucher for such payment.

Presentation of C. and F. Co. account for construction of 50 miles of road in Los Angeles Co.

The Contract and Finance Company having presented an account for the construction of fifty miles of road in Los Angeles county, as laid out on map marked "AA" and described on page 136 of these minutes, the following resolution was offered by E. H. Miller, Jr., and adopted by a unanimous vote:

Resolution accepting same and authorizing payment of account.

Resolved, that the company accept the 50 miles of railroad and telegraph line completed by said Contract and Finance Company, and it is hereby ordered that stock and bonds be issued to said Contract and Finance Company in payment therefor in the same proportion as provided for in contract for construction of main line (dated May 1st, 1871), the said contract having been made prior to the consolidation of the main line with the line from a point at or near Taheechaypah pass via Los Angeles.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion, duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secty.

Directors' Meeting.

December 17, 1874.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Thursday, December 17th, A. D. 1874, at two o'clock P. M., pursuant to adjournment, all of the directors being present, to wit: Charles Crocker, David D. Colton, E. H. Miller, Jr., Robert Robinson, N. T. Smith, S. T. Gage, and J. L. Willcutt—Chas. Crocker presiding as president of the board.

The following resolution was offered by Robert Robinson, to wit:

Resolution to consolidate with L. A. & S. P. R. R. Co.

Resolved that this corporation do consolidate with the Los Angeles and San Pedro Railroad Company upon the terms and conditions set forth in the articles of association, amalgamation and consolidation now herewith presented, which are hereby approved, and the president and secretary of this company are hereby authorized and required to subscribe the name of this corporation to said articles and affix its corporate seal thereto and deliver said articles as the act and deed of this corporation—which resolution was adopted by the unanimous vote and concurrence of the full board of directors—the articles referred to in this resolution being as follows:

(The articles of association, amalgamation and consolidation with L. A. & S. P. R. R. Co., unexecuted, are then set out, but are omitted from this copy in accordance with the stipulation of counsel.)

No further business appearing before the board and the foregoing minutes having been read and approved, on motion, duly seconded, the meeting adjourned to Saturday, 19th instant, at 11 o'clock A. M.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

December 19th, 1874.

The board of directors named in article third of the articles of association, amalgamation, and consolidation of the new corporation under the name of the Southern Pacific Railroad Company, to wit: Charles Crocker, David D. Colton, E. H. Miller, Jr., Robert Robinson, Nicholas T. Smith, Stephen T. Gage, and Joseph L. Willcutt, met at the office of the company on Saturday, December 19, 1874, at 11 o'clock A. M., pursuant to adjournment—the full board being present.

On motion, David D. Colton occupied the chair, and J. L. Willcutt was appointed secretary of the meeting.

Robert Robinson reported that the articles of association, amalgamation, and consolidation had been duly executed and filed in the office of the secretary of state, and presented a certified copy thereof reading as follows:

(The articles of association, amalgamation, and consolidation with L. A. & S. P. R. R., as executed are then set out, but are omitted from this copy in accordance with the stipulation of counsel.)

* * * * * * * * * * * * * * *

[Signed] J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 2, 1875.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, February 2, 1875, at 11 o'clock A. M., pursuant to the call of the president.

Present directors: Charles Crocker, Robert Robinson, N. T. Smith, E. H. Miller, Jr., and J. L. Willcutt.

Absent directors: David D. Colton and S. T. Gage.

President Chas. Crocker presided at the meeting.

Communication from Western Development Company.

A communication was presented from the Western Development Company, reading as follows:

To the President and Directors of the Southern Pacific Railroad Company.

Gentlemen: The undersigned Western Development Company having purchased from the Contract and Finance Company (with your approval) the contract for the construction of your railroad from Gilroy, in the county of Santa Clara, to the eastern boundary of the State of California, dated on the first day of May, A. D. 1871, find that by the amalgamation and consolidation of your company with other companies, and the addition of other lines by act of Congress, that you now require the construction of a line by the way of Soledad through the Polonio Pass to intersect the old

line at or near Poso creek, and also a line from Tehachapi junction, via Los Angeles, to a point near Fort Yuma—making about eight hundred and seventy-nine miles of unfinished road that it is necessary to construct within the term required by the laws of the United States and of this State, while the amount left uncompleted of that part of the road included in the contract now held by this company is only about three hundred and twenty-two miles. It is believed that the whole work can be done more economically by one company than it could be by a number of companies, and, being desirous of extending our operations, we propose to surrender the contract purchased from the Contract and Finance Company, and enter into a new contract, substantially in the form herewith marked "A." We believe the terms are more favorable than the work can be done by several contractors or by any other company. We respectfully ask you to consider the subject.

WESTERN DEVELOPMENT COMPANY,

By JOHN MILLER, Secretary.

Whereupon the following resolution was offered by Robert Robinson, and, being duly seconded, was adopted by a unanimous vote:

Approving assignment of contract to W. D. Co.

Whereas, on the first day of May, A. D. 1871, this company entered into a contract with the Contract and Finance Company, a corporation duly organized under the laws of this State, by which said contract the said Contract and Finance Company covenanted and agreed to construct and equip the railroad of this com-

pany from Gilroy, in the county of Santa Clara, to the easterly boundary of the State of California near Fort Mojave, and shown by said contract as spread upon the records of this company; and whereas the said Contract and Finance Company has by an instrument in writing under its corporate seal assigned and transferred said contract to the Western Development Company, a corporation duly incorporated and organized under the laws of the State of California:

Now, therefore, it is resolved that this company consents to and approves of said assignment, and accepts the said Western Development Company as contractor and party to said contract as fully and in the same manner as the said Contract and Finance Company was before said assignment, and entitled to all the rights and privileges of said Contract and Finance Company before said assignment.

A draft of agreement submitted by the Western Development Company was presented, reading as follows:

Agreement with Western Devp. Co.

Articles of agreement made this ——— day of ———, A. D. 1875, between the Southern Pacific Railroad Company, a corporation duly organized under the laws of the State of California, party of the first part, and the Western Development Company, a corporation duly organized under the laws of said State, party of the second part, witnesseth:

Article First.

The said party of the second part hereby covenants and agrees to and with the said party of the first part, its successors and assigns, that it will, in good workmanlike manner, construct, finish, furnish, and complete the railroad and telegraph line of the said party of the first part, upon the routes selected by said party of the first part, beginning at Soledad, in the county of Monterey; thence to the eastern boundary of the State on the Colorado river at or near the "Needles" (less the amount constructed between Poso creek and Sumner station); also between Los Gatos creek and Goshen station; also from the junction at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad near Fort Yuma—all in the State of California, together with the rolling stock, buildings, instruments, and fixtures therefor; that is to say, to construct, furnish, finish, do, and complete all the clearing, grading, excavations, embankments, ditches, drains, masonry, culverts, bridges and trestling, furnish all the ties, timber, rails, iron of all kinds, for bridges and other purposes, all the chairs, fishplates, spikes, frogs and switches; lay and complete all the main line of track, and all the sidetracks, spur tracks and turnouts necessary, usual, and proper for a single track railroad.

Also all necessary and proper buildings and erections for stations, freight and passenger depots, water tanks, turntables, engine houses, work and repair shops, with all the tools, furniture, and implements necessary or proper therefor; also to furnish and place on said railroad all necessary and proper rolling stock, instruments, and

equipments, including locomotives, passenger, box, freight, baggage, platform, dump and, hand cars for the proper and successful working, operating, and repairing of said railroad and telegraph line; such rolling stock to be furnished and delivered as may be required by the said party of the first part, not to exceed the following quantity and proportion, viz.: One locomotive for every five miles of road constructed under this contract; one passenger car for every mile of road; three box and flat cars for every mile of road; the proportion of each to be determined by the said party of the first part. One handcar for every six miles of road. Such number of dump cars as may be required for maintaining the line.

Twenty miles of railroad and telegraph line to be constructed and equipped each year, and an additional twenty miles a year if the same be required by the said party of the first part, until the whole is completed. First twenty miles to be completed on or before the first day of July, A. D. 1875, and the whole to be completed within the time which now is or may hereafter be limited by act of Congress.

Article Second.

And the said party of the second part hereby further covenants and agrees that it will furnish and provide and pay for all the engineer service necessary or requisite for the location and construction of said railroad and its appurtenances, such location and construction to be subject to the approval of the president or chief engineer of said party of the first part, who may direct such changes as they may deem proper; the salary of the chief engineer of the

said railroad company to be paid by the said party of the first part.

The said party of the second part also agrees to pay all the cost and expense of the right of way, and of procuring the same for the portion of said railroad constructed under this contract.

Article Third.

And the said party of the first part hereby covenants and agrees to and with the said party of the second part, its successors and assigns, that it will pay for the construction and equipment of said railroad and telegraph line as aforesaid the sum of thirty-one millions six hundred and fifty-four thousand dollars in first mortgage bonds of the Southern Pacific Railroad Company, and thirty-one millions six hundred and fifty-four thousand dollars of the capital stock of said company not heretofore subscribed for or issued; and the said party of the second part shall subscribe for all said capital stock as aforesaid, and shall receive certificates of stock and the bonds of said company therefor pro rata as the construction of the railroad and telegraph line progresses and is accepted by the said party of the first part in sections of twenty miles each.

Article Fourth.

And the said party of the first part hereby further covenants and agrees to transport and convey over its

railroads, free of charge, all agents, laborers, and employees, and all provisions, tools, iron, and other materials, and all other property employed or used, or to be employed or used, in and about the construction of said railroad and telegraph line, and their appurtenances, by or for the said party of the second part.

Article Fifth.

And it is further covenanted and agreed that this contract, or any part thereof, shall not be assigned or transferred by said party of the second part without the written consent of the said party of the first part being first had and obtained, and neither the said party of the second part nor any assignee or subcontractor, or any employer, laborer, or any person or corporation furnishing any material, or performing any labor or service, upon the said railroad or telegraph line, or the equipments, fixtures or appurtenances, or any part thereof, shall have, hold, or enforce any lien, incumbrance or claim against or upon the said party of the first part, their successors or assigns, or their railroad or telegraph line or said equipments, fixtures, or appurtenances, or any part thereof, or any property of any kind, of said parties of the first part, or any of the said work contracted to be done herein either under the laws of the State of California now in force or which may hereafter be enacted or in any other way whatsoever.

Article Sixth.

And it is hereby further agreed that should the said party of the first part at any time become dissatisfied with the manner of the prosecution of the work by the said party of the second part, and if the said party of the second part shall fail, neglect or refuse, when requested, to remove the cause of such dissatisfaction, or to prosecute said work as required by said party of the first part, or to fully observe, perform, and execute its agreements as herein set forth, then and in such case the said party of the first part shall have the right to take possession of all the said work, whether finished or unfinished, as also of all the locomotives, cars, and rolling stock, rails, ties, and all other railroad material, all the tools, horses, carts, wagons, provisions, material and machinery of all kinds and in the construction of said railroad or telegraph line or purchased for that purpose, and may go on and complete the said road and telegraph line at the expense of the said party of the second part, the profit or loss as the case may be, to be received or sustained by the said party of the second part.

Article Seventh.

And it is hereby further stipulated and agreed that no stockholder of the said Southern Pacific Railroad Company shall be individually or personally liable or bound by the terms of this agreement, beyond or exceeding the actual amount of stock of said company held by him at the date of the said agreement.

In testimony whereof, the said parties have caused these presents to be signed by the president and secretary

of the party of the first part, and the secretary of the party of the second part, and their respective corporate seals to be hereto affixed the day and year aforesaid as the act and deed of said companies.

SOUTHERN PACIFIC RAILROAD COMPANY,

[Seal] By , President.

Secretary.

WESTERN DEVELOPMENT COMPANY,

[Seal] By , Secretary.

Whereupon E. H. Miller, Jr., offered the following resolution, which being duly seconded was adopted by a unanimous vote,

Resolution accepting proposition of W. D. Compy.

Resolved, that this company do accept the proposition of the Western Development Company to construct, complete, and equip so much of the road and telegraph line as is mentioned in the form of contract submitted, and that the president and secretary are hereby ordered and directed to subscribe their names to the said contract and affix the corporate seal thereto as the act and deed of this company.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion the meeting adjourned.

[Signed] J. L. WILLCUTT,

Secty.

Directors' Meeting.

August 27th, 1875.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Friday, August 27th, A. D. 1875, at 3 o'clock P. M., pursuant to the call of the president.

Present: Directors Chas. Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., S. T. Gage, N. T. Smith, and J. L. Willcutt, President Chas. Crocker presiding.

The following resolution was offered by S. T. Gage, and duly seconded and adopted by a unanimous vote:

Resolved, that this company enter into a contract with Harvey S. Brown, in the following words and figures, to wit:

Agreement with Harvey S. Brown.

"Articles of agreement made and entered into this- -day of August, A. D. 1875, by and between the Southern Pacific Railroad Company, party of the first part, and Harvey S. Brown, party of the second part, witnesseth: That the party of the first part, in consideration of the sum of one dollar to it in hand paid, contracts and agrees to quitclaim and release to the said Harvey S. Brown, party of the second part and his assigns, all of its interest in and to the Rancho of the Sobrante of San Jacinto, as patented by the Government of the United States and situated in township three (3) south, ranges five (5) and six (6) west, and township four (4) south, and ranges four (4), five (5) and

six (6) west, San Bernardino base and meridian of United States surveys, being the same rancho upon which are situated the Tin Mines of Temescal, and situated in the county of San Bernardino, State of California, upon the payment by said Harvey S. Brown, to the said party of the first part, in gold coin of the sum of sixty-one thousand dollars, on or before the ninth day of March, 1876. It being understood by both parties that the United States has patented said land to parties, other than either of the parties hereto.

"And it is hereby expressly agreed and understood that in the event of a failure by said Harvey S. Brown, or his assigns to make the payments herein provided and stipulated, on or before the said 9th day of March, 1876, then this agreement ceases and determines, and becomes utterly void and of no effect.

"In witness whereof, the said party of the first part has caused these presents to be signed by its president and secretary, and affixed its corporate seal thereto, as the act and deed of said corporation, and the said party of the second part has signed and sealed the same this day and date first above written.

SOUTHERN PACIFIC RAILROAD COMPANY.

[Seal] By ————, President.

————, Secretary."

And that the president and secretary be and they are hereby directed to sign the same and affix the corporate seal of the company thereto as the act and deed of this company.

The following preamble and resolution was offered by N. T. Smith and adopted by a unanimous vote:

> Whereas, on the 9th day of March A. D. 1870, Leland Stanford, C. P. Huntington, Mark Hopkins, Chas. Crocker, and E. B. Crocker, made a contract with Lloyd Tevis for the benefit of the Southern Pacific Railroad Company; and
>
> Whereas, on the 2nd day of November, A. D. 1872, this company ratified and assumed said contract; and
>
> Whereas, the said Lloyd Tevis has fully performed and completed said contract on his part; and
>
> Whereas, the said Leland Stanford, C. P. Huntington, Mark Hopkins, and Chas. Crocker did, on the 3rd day of August, A. D. 1875, pay to said Lloyd Tevis, one hundred and seventy-five first mortgage bonds of this company of the denomination of $1,000 each, in fulfillment of said contract on the part of this company—now, therefore, be it

To deliver S. H. H. & C. $175,000 in bonds ac. Lloyd Tevis.

Resolved, that the treasurer of this company be, and is hereby, authorized to deliver to said Stanford, Huntington, Hopkins and Crocker one hundred and seventy-five first mortgage bonds of this company of one thoudred and seventy-five bonds of the county of sand dollars each, or in lieu thereof one hun- Los Angeles of $1,000 each, in full satisfaction of said contract on the part of this company, and to accept and file the receipt of the said Tevis as a voucher for such payment.

On motion of David D. Colton the following preamble and resolution was unanimously adopted:

Whereas, by the articles of association, amalgamation and consolidation between the Southern Pacific Railroad Company and the Los Angeles and San Pedro Railroad Company into this company, made and executed on the 17th day of December, 1874, it was provided among other matters and things that the stockholders of said companies should severally receive the same number of shares of the capital stock of this company which they held of the capital stock of said companies; and

Whereas, at the date of said consolidation, the capital stock of said Los Angeles and San Pedro Railroad Company consisted of five hundred thousand dollars divided into five thou-

sand shares of one hundred dollars each; and

Whereas, 2,740 shares of the capital stock of said last-named company, at the date of said consolidation, was owned and held by Leland Stanford, Collis P. Huntington, Charles Crocker and Mark Hopkins, in common; and

Whereas, the railroad and appurtenances of said last-named company were out of repair and required a large expenditure of money to improve and repair the same; and

Whereas, at the instance and request of said company, the said Stanford, Huntington, Crocker and Hopkins did make said improvements and repairs at their own cost and charge and therein did expend large sums of money, and upon the like instance and request did expend other large sums of money in paying off and satisfying the indebtedness of said company; and

Whereas, the said Stanford, Huntington, Crocker and Hopkins are the owners and holders of the bonded indebtedness of the said Los Angeles and San Pedro Railroad Company, which existed at the time of said consolidation to the amount of three hundred thousand dollars in six hundred bonds for the sum of five hundred dollars each, bearing ten per cent interest, which bonds it has been heretofore deemed and considered advisable to call in and cancel and to issue in lieu thereof and deliver

to the holders thereof three hundred of the first mortgage bonds of this company, for the sum of one thousand dollars each, bearing six per cent interest;

Now, therefore, in consideration of the premises, it is ordered:

To deliver 2,740 shares new stock to S. H. H. & C.

1st. That 2,740 shares of the capital stock of this company be issued in the usual form and delivered to said Stanford, Huntington, Crocker and Hopkins pursuant to the aforesaid condition of said articles of consolidation in place of the stock so held as aforesaid by them in the said Los Angeles and San Pedro Railroad Company.

To pay $500,000 in bonds to S. H. H. & C. in in payment of expenditures on ac. L. A. & S. P. R. R. Co.

2d. That first mortgage bonds of this company, for the sum of one thousand dollars each, to the number of five hundred, be delivered to said Stanford, Huntington, Crocker, and Hopkins in payment and satisfaction of their said claim for moneys expended by them in making the aforesaid repairs and improvements, and in paying off and satisfying the aforesaid indebtedness of said Los Angeles and San Pedro Railroad Company, and that the usual vouchers be taken therefor; and

To exchange

3d. That first mortgage bonds of this company for the sum of one thousand dollars each, to the number of three hundred, be delivered to said Stanford, Huntington, Crocker and Hopkins in exchange for the aforesaid six

bonds of S. P. R. R. Co. for bonds of L. A. & S. P. R. R. to amount of 300,000

hundred bonds of said Los Angeles and San Pedro Railroad Company so as aforesaid held by them upon the surrender thereof, and when said last-named bonds shall have been so surrendered that they be canceled by defacing the seal of said company, punching the signatures of the president and secretary and drawing a red line through each of the coupons annexed thereto.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

September 14th, 1875.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, September 14th, A. D. 1875, at 2 o'clock P. M. in pursuance of the by-laws.

Present: Directors Charles Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., and J. L. Willcutt, President Charles Crocker presiding as president of the board.

Absent: Directors N. T. Smith and S. T. Gage.

* * * * * * * * *

The following resolution was offered by E. H. Miller, Jr., and on motion duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road Spadra to San Gorgonio Pass, 50 miles. Map "BB."

Resolved, that the line of railroad as it has been surveyed and laid out on map marked "BB" and described as follows: Commencing at a point in the northeast quarter (N. E. ¼) of section twenty-seven (27), township one (1) south, range nine (9) west, San Bernardino base and meridian, and running thence in a southeasterly direction to a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, being the map and profile of section No. 2 of the Southern Pacific Railroad and telegraph line authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3d, 1871, be and the same is hereby adopted as the route of said railroad between the points named.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secty.

Directors' Meeting.

December 2nd, 1875.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Thursday, December 2nd, A. D. 1875, at 2 o'clock P. M., pursuant to the call of the vice-president, in the absence of the president.

Present: Directors David D. Colton, E. H. Miller, Jr., S. T. Gage, N. T. Smith, and J. L. Willcutt, Vice-president David D. Colton presiding.

Absent: Directors Chas. Crocker and Robert Robinson.

* * * * * * * * *

The following preamble and resolutions, on motion of E. H. Miller, Jr., were unanimously adopted:

Resolution to undertake construction of Texas Pacific Railroad.

Whereas, this company has constructed over five hundred miles of its road from the city of San Francisco to its proposed junction with the Texas Pacific Railroad at or near the Colorado river, in the southeastern part of the State, leaving only two hundred miles to be completed, upon which the heaviest work is nearly finished.

And whereas, this company expects to complete its road to the Colorado river by the first of July, 1876;

And whereas, the eastern portion of the road will be of little value to the company, and of little convenience to the public so long as it remains without a connecting road running to the east on the line of the so-called Texas Pacific Railroad;

And whereas, it is of vital importance to the company to secure as speedily as possible a through railroad connection with the commercial centers of the east;

And whereas, the Texas Pacific Railroad Company has failed to comply with the condi-

tions imposed upon it by an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3d, 1871; now, therefore,

Resolved, 1st. That this company, if so authorized and empowered by Congress, will undertake the construction and equipment of the entire railroad and telegraph line provided for in said act lying to the east of the boundary line of the State of California, or to construct the same to a point of connection with said Texas Pacific Railroad Company, upon the same considerations, terms, conditions, restrictions, immunities, powers, rights and privileges, which, by said act were granted to and imposed upon said Texas Pacific Railroad Company, and will agree to complete the same within five years after the passage of an act of Congress, vesting in it all the grants, powers, rights, privileges, and immunities, and imposing upon it all the conditions, limitations, and restrictions respectively vested in and imposed upon said Texas Pacific Railroad Company by said act, and will ask of Congress no other or further aid.

Resolved, 2d. That C. P. Huntington be and hereby is authorized and empowered on behalf of this company to submit the foregoing proposition to Congress, and urge its acceptance.

Resolved, 3d. That a copy of these resolutions under the seal of the company, and signed by the vice-president, the president being absent, and secretary be forwarded to said Huntington.

* * * * * * * * *

[Signed] J. L. WILLCUTT,
Secty.

Directors' Meeting.

March 28th, 1876.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, March 28, 1876, at 11 o'clock A. M., pursuant to the call of the president.

Present: Directors Charles Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., N. T. Smith, and J. L. Willcutt; Charles Crocker presiding as president of the board.

Absent: Director S. T. Gage.

The following resolution was offered by David D. Colton and adopted by a unanimous vote:

Resolution adopting line of road 80th to 100th mile south from Goshen. Map "E."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "F" and described as follows:

Commencing at a point at the end of the eightieth (80th) mile on the line of the said railroad, south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Rail-

road (said point of commencement being in the northeast quarter (N. E. ¼) of section five (5), township thirty (30) south, range twenty-nine (29) east, Mount Diablo base and meridian); running thence in a southeasterly direction and ending at the termination of the twentieth (20th) mile therefrom in the southeast quarter (S. E. ¼) of section thirty-three (33), township thirty (30) south, range thirty-one (31) east, Mount Diablo base and meridian—be and the same is hereby adopted as the route of said railroad between the points named.

The following resolution was offered by E. H. Miller, Jr., and adopted by a unanimous vote:

Resolution adopting line of road San Gorgonio Pass to 1st Indn. Wells. Map "CC."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "CC" and described as follows:

Commencing at a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles to a point in the southwest quarter (S. W. ¼) of section twenty-four (24), township (5) south, range seven (7) east, San Bernardino base and meridian, be and the same is hereby adopted as the route of said railroad between the points named.

* * * * * * * * *

The following resolution was offered by David D. Colton and adopted by a unanimous vote:

Resolution to pay W. D. Co. for road.

Whereas, the Western Development Company has completed 140 miles under its contract of the date of February 2d, 1875, for the construction of the Southern Pacific Railroad, and in accordance with said contract is entitled to receive from this company five million and forty thousand dollars in the first mortgage bonds of the company, and also five million and forty thousand dollars in full paid shares of its capital stock as payment therefor.

Therefore, resolved, that the said 140 miles of railroad are hereby accepted and the president and secretary are hereby authorized and directed to issue to said Western Development Company the said bonds and stock in accordance with said contract, taking a proper voucher therefor on account.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secty.

Directors' Meeting.

October 11th, 1876.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Wednesday, the 11th day of October, A. D. 1876, at one o'clock P. M. pursuant to the by-laws.

Present: Directors David D. Colton, E. H. Miller, Jr., H. M. Newhall, N. T. Smith, and J. L. Willcutt, vice president David D. Colton presiding.

Absent: Directors Chas. Crocker and Robert Robinson.

As to leasing road to C. P. R. R.

The vice-president stated that an understanding had been had between the officers of this company and of the Central Pacific Railroad Company for the operating of all that portion of the Southern Pacific Railroad south of Goshen upon the same basis as for that portion heretofore operated by it, viz: $250 net per mile per month, and that an agreement was being prepared to date from September 1st, which would be presented at a future meeting for the action of the board.

The following resolution was offered by J. L. Willcutt, and adopted by a unanimous vote:

Resolution adopting line of road as per maps. Map "G."

Resolved, that the line of the railroad as it has been surveyed and laid out on maps described as follows:

Commencing at Goshen at the initial point of section No. three (3) of the Southern Pacific

Goshen to 20 miles west.

Railroad (said point of commencement being in the northwest quarter (N. W. ¼) of section nineteen (19), township eighteen (18) south, range twenty-four (24) east, Mount Diablo base and meridian); running thence in a westerly direction, and ending at the termination of the twentieth (20th) mile therefrom in the northeast quarter (N. E. ¼) of section two (2), township nineteen (19) south, range twenty (20) east, Mount Diablo base and meridian.

Map "H" to 40th mile f'm Goshen.

Commencing at the end of section number eight of the Southern Pacific Railroad (said point of commencement being in the northeast quarter (N. E. ¼) of section two (2), township nineteen (19) south, range twenty (20) east, Mount Diablo base and meridian); running thence in a southwesterly direction and ending at the termination of the twentieth (20) mile therefrom in the northwest quarter (N. W. ¼) of section eleven (11), township twenty (20) south, range seventeen (17) east, Mount Diablo base and meridian.

Map "I," 100th to 120th mile southerly f'm Goshen.

Commencing at the end of section No. seven (7) of said railroad (map "F") at the end of the one-hundredth (100) mile on the line of the said railroad, south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Railroad (said point of commencement being in the southeast quarter (S. E. ¼) of section thirty-

three (33), township thirty (30) south, range thirty-one (31) east, Mount Diablo base and meridian); running thence in a southeasterly direction and ending at the termination of the twentieth (20) mile therefrom in the northeast quarter (N. E. ¼) of section nineteen (19), township thirty-two (32) south, range thirty-three (33) east, Mount Diablo base and meridian.

Map "J," "I," 120th to 140th mile southerly from Goshen.

Commencing at the end of section number ten of said railroad as delineated on map "I," at the end of the one hundred and twentieth (120th) mile on the line of the said railroad south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Railroad (said point of commencement being in the northeast quarter (N. E. ¼) of section nineteen, township thirty-two (32) south, range thirty-three (33) east, Mount Diablo base and meridian; running thence in a southeasterly direction, and ending at the termination of the twenty-first and sixty-six one-hundredth (21 66.100) mile therefrom in the northeast quarter (N. E. ¼) of section seventeen (17), township eleven (11) north, range twelve (12) west, San Bernardino base and meridian.

Map "DD" from San Fernando northerly to a point

Commencing at the initial point of section number one (1) of said railroad, as delineated on map "AA," said point being in the northwest quarter (N. W. ¼) of section three (3),

140 miles southerly from Goshen.

township two (2) north, range fifteen (15) west, San Bernardino base and meridian, running thence northerly and ending at the termination of the seventy-eighth (78) and fifty-nine one-hundredth (78.59-100) mile therefrom at the terminal point of section number eleven (11) of the Southern Pacific Railroad authorized by the eighteenth section of the Atlantic and Pacific Railroad Act approved July 27, 1866, and amendments thereto, as delineated on map "J" of said railroad, said point being in the northeast quarter (N. E. ¼) of section seventeen (17), township eleven (11) north, range twelve (12) west, San Bernardino base and meridian.

be and the same is hereby adopted as the route of said railroad between the several points named.

A communication was received from the Western Development Company reading as follows:

San Francisco, October 6th, 1876.

Communication from W. D. Co. as to completion of 246.60 m. road.

To the Honorable Board of Directors Southern Pacific Railroad.

Gentlemen: Enclosed I hand you Chief Engineer Gray's estimate of completed road on the W. D. Co.'s contract with your company, and would respectfully request that the bonds and stock, due for the same, be issued to this company at your earliest convenience.

The statement of our account is as follows, viz:

Total amount of road built in miles		246.60
For which we are entitled to in bonds		$8,877,600
do	in stock	8,877,600
		$17,755,200
Have received for 140 miles road built		
in bonds	$5,040,000	
in stock	5,040,000	10,080,000
Balance due for 106.60 miles,		
bonds and stock,		$7,675,200

Your respectfully,

F. S. DOUTY,

Prest.

San Francisco, July 31, 1876.

President Western Development Company.

Sir: I submit the following estimate for work done under your contract to grade and equip the railroad of this Company:

Grading and equipping road from Sumner to end of section No. 6, Sta. 11,935.....	6.35	miles.
Grading and equipping road from Sumner to end of section No. 7, Sta. 13,008 x 12.9-10...20.	"	
Grading and equipping road from Sumner to end of section No. 8, Sta. 14,045 x 70.3-10...20.	"	
Grading and equipping road from Sumner to end of section No. 9, Sta. 15,702 x 39.6-10...20.	"	
Grading and equipping road from Sumner from section No. 9, section No. 1 marked "AA", 1st division.....80.25	"	
Grading and equipping road from Spadra to San Gorgonio, 2d division.....50.	"	
Grading and equipping road from San Gorgonio to Indian Wells, 3d division.....50.	"	

Total miles,	246.60
Deduct estimate March 18, 1876,.....140.	
Total miles,	106.60

Respectfully submitted,

GEO. E. GRAY,
Chief Engineer.

On motion of E. H. Miller, Jr., the communication was received and ordered to be placed on file.

The following resolution was offered by E. H. Miller, Jr., and beng duly seconded was adopted by a unanimous vote:

Resolution to pay W. D. Co. for road.

Whereas, the Western Development Company has completed one hundred and six and 60-100 (106.60-100) miles road and telegraph line under its contract of February 2d, 1875, and in accordance with said contract is entitled to receive as payment therefor seven million six hundred and seventy-five thousand two hundred dollars ($7,675,000) in the stock and bonds of this Company (one-half each); therefore, be it

Resolved, that the said 106.60-100 miles of railroad be and are hereby accepted, and the president and secretary are hereby authorized and instructed to issue to said Western Development Company the said stock and bonds in accordance with said contract, taking a proper voucher therefor.

W. D. Co. Bills for transportation ordered paid.

Bills were presented for $89,309.71 and $655.00 from the Western Development Company, being amount paid to Central Pacific Railroad Company for transportation of men engaged on construction of road south of Goshen to August 31st, 1876, which on motion of E. H. Miller, Jr., duly seconded, were ordered to be paid and voucher filed therefor.

No further business appearing before the Board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

February 7th, 1877.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Wednesday, February 7, A. D. 1877, at 1 o'clock P. M., pursuant to the by-laws.

Present: Directors Chas. Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., N. T. Smith, H. M. Newhall, and J. L. Willcutt. Charles Crocker presiding as president of the board.

A communication was presented from the Western Development Company reading as follows:

Communication from W. D. Co. as to completion of 40 m. road.

San Francisco, February 6th, 1877.

To the President and Board of Directors,
Southern Pacific R. Rd.

Gentlemen: Enclosed I hand you Chief Engineer Gray's report, referring in detail to the completion of that portion of your road lying between Goshen and Huron, comprising section eight and nine, of twenty miles each, and

amounting to forty miles; to which, together with inclosed bill, in favor of W. D. Co., your early attention is respectfully called.

Yours respectfully,

F. S. DOUTY,

Prest.

San Francisco, February 5th, 1877.

President Western Development Compy,

Dear Sir: I have to report the completion under your contract with the Southern Pacific Railroad Company, forty miles of railroad, commencing at Goshen (Station O), thence to Huron (Station 2,110 x 13½ feet) the last rail of which was laid January 9th, 1877.

Respectfully yours,

GEO. E. GRAY,

Chief Engineer.

S. F., Feby. 6th, 1877.

Southern Pacific Railroad Co., to Western Development Co., Dr.

For construction of road as follows, viz:

Sections 8 and 9 from Goshen west 40 miles @ $72,000 per mile as per contract, $2,880,000 (half bonds and half stock).

On motion of E. H. Miller, Jr., the communication was received and ordered to be placed on file.

The following resolution was offered by David D. Colton and being duly seconded was adopted by a unanimous vote:

Authorizing payment to W. D. Co. for road.

Whereas, the Western Development Company has completed forty miles of railroad and telegraph line under its contract dated dated February 2d, 1875, and by terms of said contract is entitled to receive as payment therefor two million eight hundred and eighty thousand dollars ($2,880,000) in the stock and bonds of this company—one-half each; therefore, be it

Resolved, that the said forty miles of railroad and telegraph line be, and the same are hereby, accepted and the president and secretary are hereby authorized and intrusted to issue to said Western Development Company the said stock and bonds in accordance with the terms of said contract, taking a proper receipt therefor.

* * * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

June 8th, 1887.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the Company on Friday June 8th, A. D. 1877, at 4 o'clock P. M., pursuant to the call of the president.

Present: Directors Charles Crocker, E. H. Miller, Jr., H. M. Newhall, N. T. Smith, and J. L. Willcutt.

Absent: Directors David D. Colton and Robert Robinson.

The president stated the object of the meeting whereupon on motion of E. H. Miller, Jr., the following preambles and resolutions were adopted unanimously:

Appointment of H. N. Alexander as attorney for Arizona Territory.

Whereas, on the 7th day of February, 1877, the legislative assembly of the territory of Arizona passed an act whereby certain grants, powers, franchises, and privileges were conferred upon this company, to be exercised, possessed, and enjoyed in said territory upon the condition that this company should appoint some person residing in said territory as its attorney in fact, upon whom service of legal process might be made with the same force and effect as if served personally upon the president or other officer or managing agent of this company.

Now, therefore, resolved, that H. N. Alexander of Yuma, in said territory, be appointed as the attorney in fact of this company, pursuant to the provisions of said act;

Resolved, further, that letters of attorney in due form of law be prepared under the corporate seal of this company, and signed by its president, and countersigned by its secretary, and delivered by the president of the company to said Alexander, with instructions to file the same, or a copy thereof, in the office of the secretary of the territory aforesaid.

The following preamble and resolution was offered by J. L. Willcutt, and on motion duly seconded was adopted by a unanimous vote.

Resolution dating series "D" of bonds.

Whereas, one of the conditions of the mortgage executed by this company on the 1st day of April, A. D. 1875, provides that series "A" of its mortgage bonds shall bear date of April 1st, 1875, and the several succeeding series such dates respectively as the board of directors may direct; therefore, be it

Resolved and ordered, that series "D" of said bonds shall bear the date of October 1st, 1876, and that the first interest coupon thereon shall be due and payable on the 1st day of April, A. D. 1877.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Note.—The power of attorney issued under the foregoing resolution reads as follows:

Copy of power of attorney to H. N. Alexander.

Whereas, on the 7th day of February, 1877, the legislative assembly of the territory of Arizona passed an act, entitled "An act to secure the construction and operation of certain railroad and telegraph lines and to provide for other matters relating thereto, whereby certain franchises, grants, powers, rights, and privileges were conferred upon a corporation therein named, to wit, the Southern Pacific

Railroad Company, upon the express condition that said corporation should appoint, under its corporate seal, an attorney residing in said territory, upon whom process of law might be served with the same force and effect as if served personally upon the president or other officer, or managing agent of said corporation.

Now, therefore, know all men by these presents, that the said Southern Pacific Railroad Company has appointed, and hereby does appoint, H. N. Alexander as its attorney pursuant to said statute, to reside in said territory with full power to receive and accept service of process of law on behalf of said corporation, with the same force and effect as if served personally upon the president or other officer or managing agent of said corporation.

In testimony whereof, said corporation has caused these presents to be signed by its president and countersigned by its secretary, and its corporate seal to be hereunto affixed on this the 8th day of June, 1877.

[Seal] (Sgd.) CHAS. CROCKER,
President S. P. R. R. Co.

(Sgd.) J. L. WILLCUTT,
Secy. S. P. R. R. Co.

Acknowledged before

CHAS. J. TORBERT,
Commissioner for Arizona Territory.

Directors' Meeting.

June 20, 1877.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Wednesday, June 20, A. D. 1877, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., H. M. Newhamm, N. T. Smith, and J. L. Willcutt.

The following resolution was offered by N. T. Smith, and being duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road as per maps. Map "EE" Indio to 50 m. southeast.

Resolved, that the line of the railroad as it has been surveyed and laid out on maps described as follows:

Commencing at Indio at the end of section No. three (3) as delineated on map "CC," said point of commencement being in the southwest quarter (S. W. ¼) of section twenty-four (24), township five (5), range seven (7) east, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles to a point in the southwest quarter (S. W. ¼) of section twenty-five (25), township ten (10) south, range thirteen (13) east, San Bernardino base and meridian.

Map "FF," "EE," from end section 5 to Colorado river, 68.37 m.

Commencing at the end of section No. five (5) as delineated on map "EE," said point of commencement being in the southwest quarter (S. W. ¼) of section twenty-five (25), township ten (10) south, range thirteen (13) east, San Bernardino base and meridian, and running thence in a southeasterly direction sixty-eight 37-100 (68.37-100) miles to a point in the northeast quarter (N. E. ¼) of section thirty-five (35), township sixteen (16) south, range twenty-two (22) east, San Bernardino base and meridian.

be and the same are hereby adopted as the route of said railroad between the points named.

* * * * * * * *

The following resolution was offered by David D. Colton, and being duly seconded, was adopted by a unanimous vote:

Resolution to pay W. D. Co. for 118.31 miles road.

Whereas, the Western Development Company has completed 118.31-100 miles of railroad and telegraph line under its contract of of February 2d, 1875, and in accordance with said contract is entitled to receive as payment therefor ($8,518,320.00) eight million five hundred and eighteen thousand three hundred and twenty dollars in the stock and bonds of this company (one half each); therefore be it

Resolved, that the said 118 31-100 miles of railroad and telegraph line be and are hereby

accepted, and the president and secretary are hereby authorized and instructed to issue to said Western Development Company the said stock and bonds in accordance with said contract, taking a proper voucher therefor.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion, duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

August 8th, 1877.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Wednesday, August 8th, A. D. 1877, at 1 o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. Crocker, David D. Colton, Jerome Madden, N. T. Smith, H. M. Newhall, Chas. Mayne, and J. L. Willcutt.

On motion of David D. Colton the minutes of the last meeting of the board were read and approved.

The president referred to the contract made with the Contract and Finance Company of May 1st, A. D. 1871, for the construction and equipment of this road and the assignment of the same to the Western Development Company. He gave an explanation of the purport and intent of the new contract as understood between the two companies.

Whereupon the following preamble and resolution was offered by H. M. Newhall, and adopted by a unanimous vote:

Resolution to transfer $10,000,000 to construction acct.

Whereas, heretofore, to wit, on the 1st day of May, 1871, this company entered into a contract with a certain corporation known as the Contract and Finance Company, for the construction and equipment of its road and telegraph, then estimated to be seven hundred miles in length, whereby it agreed to pay to said Contract and Finance Company, in consideration of construction and equipment as aforesaid, all of its capital stock not then subscribed for or issued, and all the bonds which it was authorized to issue, to wit, $40,000 per mile, aggregating the sum of $28,000,000—$5,000,000 in stock, and $5,000,000 in bonds to be delivered on the execution of said contract, and the remainder pro rata per mile as the construction progressed. And whereas, said $5,000,000 in stock and said $5,000,000 in bonds was delivered to said Contract and Finance Company as provided in said contract;

And whereas, said stock and bonds were entered in the books of this company as debits against said Contract and Finance Company, and still remain so entered;

And whereas, this company had paid and delivered to said Contract and Finance Com-

pany in bonds including the $5,000,000 aforesaid, the sum of $13,596,000 on account of construction, and $750,000 to the holders of old bonds of the company in redemption thereof, prior to the assignment of said contract as hereinafter stated;

And whereas, afterward, to wit, on the —— day of January, 1875, after a partial performance thereof, said Contract and Finance Company, with the knowledge and consent of this company, assigned said contract to a corporation known as the Western Development Company, upon the condition that said last-named company should perform it to the entire satisfaction of this company for and in consideration of so much of the stock and bonds of this company mentioned in said contract as had not theretofore been paid out and delivered to said Contract and Finance Company, and to other parties in redemption of old bonds of the company as aforesaid;

And whereas, afterward this company, acting under certain laws of Congress and the State of California, amended its articles of incorporation so as to enable it to construct additional lines of road and telegraph provided for in said acts of Congress, aggregating 750 miles or thereabouts, and to issue additional bonds for the construction thereof, and whereas, this company did thereupon author-

ize the issue of bonds to the amount of $46,000,000, $14,346,000 of which were used in the redemption of the bonds which had been issued previously as aforesaid;

And whereas, afterward, to wit, on the 2d day of February, 1875, this company entered into another contract with the Western Development Company for the construction and equipment of its road and telegraph, including the unfinished portions provided for in said contract first aforesaid, as well as the additional road and telegraph provided for in said amended articles of incorporation, whereby this company agreed, for and in consideration of such construction and equipment, to pay and deliver to said Western Development Company $31,654,000 in the stock of the company, and an equal amount in the bonds of the company, making, together with the $14,346,000 paid out as aforesaid, $46,000,000, being the full amount of the bonds authorized to be issued as aforesaid—it being the true intent and meaning of said contracts that said Contract and Finance Company and said Western Development Company should together receive all the bonds of the company in part payment for the construction and equipment of the road and telegraph of the company as provided in said contracts—yet, nevertheless, it appears by the books of the company as

hereinbefore stated that said Contract and Finance Company is indebted to this company to the amount of $5,000,000 in its bonds and an equal amount in its stock contrary to the true intent and meaning of said contracts.

Now, therefore, resolved that the secretary be directed and instructed, and he is hereby instructed and directed to cancel said debits and transfer the same to his construction account, where the same properly belongs.

The following resolution was offered by Chas. Mayne, and on motion duly seconded, was adopted by a unanimous vote:

Amending section 5 of by-laws.

Resolved, that section 5 of the by-laws be amended, by substituting the word "Tuesday" for "Wednesday," the said section then reading as follows:

Directors' meetings.

Section 5. The regular weekly meetings of the board of directors shall be held on Tuesday of each week at one o'clock in the afternoon, at the office of the company without further notice than the operation of this by-law, and four or more of the directors shall constitute a quorum at all meetings for the transaction of business. Special meetings may at any time be called by the president, or any three members of the board, to convene at such time and place as may be appointed, but it shall require a majority of the whole board to adopt any measure.

Quorum special meetings.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 12th, 1878.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Tuesday, February 12th, A. D. 1878, at 1 o'clock P. M., pursuant to the by-laws.

Present: Directors Chas. Crocker, Chas. Mayne, N. T. Smith, Jerome Madden and J. L. Willcutt. President Chas. Crocker presiding.

Absent: Directors David D. Colton and H. M. Newhall.

The following resolution was offered by Chas. Mayne and adopted by a unanimous vote:

(Texas Pacific R. R.) Resolution as to construction of road east of Colorado river (Amended pp. 312, 313.)

Whereas, this company has constructed its road to its proposed junction with the Texas Pacific Railroad at or near the Colorado river, in the southeastern part of this State;

And whereas, the eastern portion of the road will be of little value to the company and of little convenience to the public so long as it remains without a connecting road running to the east on or near the line of the so-called Texas Pacific Railroad;

And whereas, it is of vital importance to the company to secure as speedily as possible a through railroad connection with the commercial centers of the east;

And whereas, the Texas Pacific Railroad Company has failed to comply with the conditions imposed upon it by an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3d, 1871, and the amendments thereto; now, therefore,

Resolved, 1st. That this company, if so authorized and empowered by Congress, will undertake the construction and equipment of the entire railroad and telegraph line, provided for in said act, lying to the east of the eastern boundary line of the State of California, or to construct the same to a point of connection with said Texas Pacific Railroad Company, upon the same considerations, terms, conditions, restrictions, immunities, powers, rights, and privileges which by said acts were granted to and imposed upon said Texas Pacific Railroad Company, and will agree to complete the same within six years after the passage of an act of Congress, vesting in it all the grants, powers, rights, privileges, and immunities, and imposing upon it all the conditions, limitations, and restrictions respectively

vested in and imposed upon said Texas Pacific Railroad Company by said acts, and will ask of Congress no other or further aid.

Resolved, 2d. That this company will prorate with all eastern lines of transportation on all through traffic between its eastern terminus and any part of the Pacific, which it may reach by its own road, or by any line it may control by lease or otherwise.

Resolved, 3d. That C. P. Huntington be, and he hereby is, authorized and empowered on behalf of this company to submit the foregoing proposition to Congress and urge its acceptance.

Resolved, 4th. That a copy of these resolutions, under the seal of the company and signed by the president and secretary, be forwarded to said Huntington.

The following resolution was offered by Chas. Mayne and adopted by a unanimous vote:

Resolution as to grading Kentucky street.

Whereas, it is proposed to grade Kentucky street, and the crossings thereof, lying between Sierra street and Center street;

And whereas, this company owns property on said street;

Now, therefore, resolved, that this company join in a petition to the board of supervisors of the city *city* and county of San Francisco, asking that said street be graded.

Resolved, further, that Chas. Crocker, president of this company, be, and he is hereby, authorized to sign such petition on behalf of this company, and to attach thereto its corporate seal.

The following resolution was offered by N. T. Smith and adopted by a unanimous vote:

Resolu- to give quitclaim deed to I. M. Hellman.

Resolved, that the president and secretary of the Southern Pacific Railroad Company be authorized and instructed to prepare and execute in behalf of said company a quitclaim deed conveying to Sarah A. Wicks, the party now having the equitable interest in the same, all that certain property conveyed to said company by I. M. Hellman, by deed dated the day of August, A. D. 1873, and acknowledged by him before A. W. Pots, county clerk of Los Angeles county, California, August 20, 1873; said deed being recorded on said 20th day of August, A. D. 1873, at 5 min. past 5 P. M., in Book 25 of Deeds, page 633, in the recorder's office of Los Angeles City, Cala., the land described therein not having been used as a portion of the right of way of said Southern Pacific Railroad, for which it was intended when said deed was executed by said I. M. Hellman.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

February 21, 1878.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Thursday, February 21, A. D. 1878, at one o'clock P. M., pursuant to the call of the president.

Present: Directors Chas. Crocker, Charles Mayne, H. M. Newhall, N. T. Smith, Jerome Madden and J. L. Willcutt. President Charles Crocker Presiding.

Absent: Director David D. Colton.

The object of the meeting having been stated by the president, the following resolution was offered by Charles Mayne, and adopted by a unanimous vote.

(Texas Pacific R. R.) to construct road east of Colorado river (2d amendment).

Whereas, this company has constructed its road to its proposed junction with the Texas Pacific Railroad at or near the Colorado river near the southeastern line of this State;

And whereas, the eastern portion of the road will be of little value to the company, and of little convenience to the public, so long as it remains without a connecting road running to the east on or near the line of the so-called Texas Pacific Railroad.

And whereas, it is of vital importance to the company to secure as speedily as possible a through railroad connection with the commercial centers of the east;

And whereas the Texas Pacific Railroad Company has failed to comply with the conditions imposed upon it by an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the amendments thereto; now, therefore,

Resolved, 1st. That this company, if so authorized and empowered by Congress, will undertake the construction and equipment of the entire railroad and telegraph line provided for in said act, lying to the east of the eastern boundary line of the State of California, or to construct the same to a point of connection with said Texas Pacific Railroad Company, upon the same considerations, terms, conditions, restrictions, immunities, powers, rights, and privileges, which by said acts were granted to and imposed upon said Texas Pacific Railroad Company, and will agree to complete the same within six years after the passage of an act by Congress, vesting in it all the grants, powers, rights, privileges, and immunities, and imposing upon it all the conditions, limitations and restrictions respectively vested in and imposed upon said Texas Pacific Railroad Company by said acts, and will ask of Congress no other or further aid;

Resolved, 2d. That this company will pro

rate with all eastern lines of transportation on all through traffic between its eastern terminus and any part of the Pacific, which it may reach by its own road, or by any line it may control by lease or otherwise;

Resolved, 3d. Further, and this company hereby agrees that if the foregoing proposition is accepted by the United States, the rates of fare and freightage from the eastern terminus of the proposed road to San Pedro, Santa Monica and San Diego in California may be established and regulated from time to time by Congress;

Resolved, 4th. That C. P. Huntington be, and he hereby, is authorized and empowered on behalf of this company, to submit the foregoing proposition to Congress, and urge its acceptance;

Resolved, 5th. That a copy of these resolutions, under the seal of the company, and signed by the president and secretary, be forwarded to said Huntington.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Special Meeting.

July 31, 1882.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Monday, July 31, 1882, at half past one o'clock P. M., pursuant to the call of the vice-president.

Present: Directors Chas. F. Crocker, Moses Hopkins, N. T. Smith, W. V. Huntington and J. L. Willcutt. Vice-President Chas. F. Crocker occupying the chair (in the absence of the president).

Absent: Directors Charles Crocker and Charles Mayne.

The meeting was called to order by the vice-president, who stated the object of it to be the acceptance of the first section of road (40 miles) on the Mojave line to the Needles.

* * * * * * * *

The following resolution was offered by Moses Hopkins and adopted by a unanimous vote:

Resolution authorizing payment to P. I. Co. for completed road.

Whereas, the Pacific Improvement Company has completed forty miles of road and telegraph line under its contract of 8th day of February, 1882, and in accordance with said contract is entitled to receive as payment therefor $2,200,000 in the bonds and stock of this company, to wit: $1,000,000 in bonds and $1,200,000 in stock.

Therefore, be it resolved, that the said forty (40) miles of road be, and are hereby, accepted, and the vice-president (in the absence of the president) and the secretary of this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock in accordance with the contract, and taking a proper voucher therefor.

The following resolution was offered by W. V. Huntington and adopted by a unanimous vote:

Resolution authorizing the vice-president to sign 480 bonds.

Resolved, that in the absence from this State of Charles Crocker, the president of this company, Chas. F. Crocker, the vice-president of the company be, and he is hereby, authorized and directed to sign four hundred and eighty (480) of the first mortgage bonds of the company, numbered respectively from 31,521 to 32,000 inclusive, and also the certificates of stock, which the said "Pacific Improvement Company" are entitled to receive, under the foregoing resolution.

No further business appearing, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

September 5, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, the 5th day of September, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Charles Mayne, W. V. Huntington, N. T. Smith, and J. L. Willcutt. Vice-President Chas. F. Crocker, presiding.

Absent: Directors Charles Crocker and Moses Hopkins.

* * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 12 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twelve (12) miles of road and telegraph line under its contract of 8th day of February, 1882, and in accordance with said contract is entitled to receive as payment therefor, $660,000.00 in the bonds and stock of this company, to wit, $300,000.00 in bonds, and $360,000.00 in stock;

Therefore be it resolved, that the said twelve (12) miles of road be and the same are hereby accepted, and the vice-president (in the absence of the president) and the secretary of

this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract, and taking a proper voucher therefor.

* * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

October 17, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 17th day of October, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Charles Mayne, N. T. Smith, W. V. Huntington, and J. L. Willcutt. Vice-President Chas. F. Crocker, presiding.

Absent: Directors Charles Crocker and Moses Hopkins.

* * * * * * * * *

The vice-president stated that the Pacific Improvement Company had completed eighteen miles more of road on the Mojave line for which a bill had been presented.

Whereupon, the following communications were presented and read by the secretary, and on motion were received and ordered to be placed on file.

* * * * * * * * *

San Francisco, Oct. 13, 1882.

Chief engineer's estimate 18 miles completed road on Mojave line.

President and Secretary Pacific Improvement Co.

Sir: I submit the following estimate for work done under your contract to grade and equip the railroad of this company, viz: Commencing at a point (52) fifty-two miles eastward of Mojave on the main line—Station 2746*33.8-10 to Station 3697* a distance of (18) eighteen miles—or a total distance of (70) miles eastward of Mojave.

The completed work includes all the grading and track equipment, sidings, etc.

Respectfully yours,

(Signed) GEO. E. GRAY,
Chief Engineer.

P. I. Co. bill for 18 miles of road completed on Mojave line.

Southern Pacific Railroad Co., to Pacific Improvement Co., Dr.,

Oct. 13, for completed road as follows:

From Station 3746* 33 8-10 to Station 3697*, distance of 18 miles @

$25,000 in bonds per mile	$450,000
$30,000 in stock per mile	540,000
	$990,000

The following resolution was offered by N. T. Smith and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 18 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed eighteen (18) miles of road and telegraph line under its contract of 8th February, 1882, and in accordance with said contract, is entitled to receive as payment therefor $990,000 in the bonds and stock of this company, to wit, $450,000 in bonds and $540,000 in stock.

Therefore, be it resolved that the said eighteen (18) miles of road be and the same are hereby accepted, and the vice-president (in the absence of the president) and the secretary of this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract, taking a proper voucher therefor.

No further business appearing and the foregoing minutes having been read and approved, on motion duly seconded, the meeting was adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

November 21, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 21st November, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Charles Mayne, N. T. Smith, Moses Hopkins, W. V. Huntington, and J. L. Willcutt. Vice-President Chas. F. Crocker presiding.

Absent: Director Charles Crocker.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote.

Resolution to pay P. I. Co. for 30 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed thirty (30) miles of road and telegraph line, under its contract of 8th day of February, 1882 and in accordance with said contract is entitled to receive as payment therefor, $1,650,000 in the bonds and stock of this company, to wit, $750,000 in bonds and $900,000 in stock;

Therefore, be it resolved that the said thirty (30) miles of road be, and the same are hereby, accepted, and the vice-president (in the absence of the president) and the secretary of this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract, taking a proper voucher therefor.

No further business appearing, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting was adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

December 26, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 26th day of December, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, Charles Mayne, W. V. Huntington, N. T. Smith and J. L. Willcutt. President Charles Crocker presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line, under its contract of 8th February, 1882, viz: from Station 5307* to 6360*, and in accordance with said contract, is entitled to receive, as payment therefor, $1,100,000 in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secre-

tary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company, the said amount of bonds and stock, in accordance with said contract, taking a proper voucher therefor.

* * * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

January 30, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday the 30th day of January, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Moses Hopkins, Charles Mayne, N. T. Smith, W. V. Huntington, and J. L. Willcutt. Vice-president Chas. F. Crocker presiding.

Absent: Director Charles Crocker.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: From Station 6360* to Station 6969*, Norton's line, or 6141* Hood's line (surveyed westward), to 5713* Hood's line, and in accordance with said contract, is entitled

to receive as payment therefor, $1,100,000—in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock.

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 20, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 20th day of February, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, W. V. Huntington, Chas. F. Crocker, N. T. Smith, Charles Mayne and J. L. Willcutt. President Charles Crocker presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: From Station 5713* to 4657*, Hood's numbering, and in accordance with said contract, is entitled to receive, as payment therefor, ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 27, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 27th day of February, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, W. V. Huntington, N. T. Smith, Charles Mayne, and J. L. Willcutt. President Charles Crocker presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: From Station 4657* to Station 3601* Hood's line (surveyed westward), and in accordance with said contract is entitled to receive as payment therefor ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500.000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

March 6, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco, on Tuesday, the 6th day of March, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, W. V. Huntington, N. T. Smith, Charles Mayne, and J. L. Willcutt. President Charles Crocker, presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Chas F. Crocker and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: from Station 3601* to Station 2545* Hood's line (surveyed westward), and in accordance with said contract, is entitled to receive, as payment therefor ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are

hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

No further business appearing, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting was adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

March 20, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco, on Tuesday, the 20th day or March, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, W. V. Huntington, N. T. Smith, Charles Mayne, and J. L. Willcutt. President Charles Crocker, presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Chas. F. Crocker and adopted by a unanimous vote:

Resolution to

Whereas, the Pacific Improvement Company has completed twenty miles of road and

pay P. I. Co. for 20 miles of road completed on Mojave line.

telegraph line under its contract of 8th February, 1882, viz, from Station 2545* to Station 1489* Hood's line (surveyed westward), and in accordance with said contract, is entitled to receive, as payment therefor, ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

April 24, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company, on Tuesday, the 24th day of April, A. D. 1883, at one o'clock P. M., pursuant to its by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, Charles Mayne, W. V. Huntington, N. T. Smith, and J. L. Willcutt. President Charles Crocker, presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

On motion of N. T. Smith, seconded by Charles Mayne, the following resolution was adopted by a unanimous vote:

Resolution to pay P. I. Co. for same.

Whereas, the Pacific Improvement Company has completed the line of road from Mojave to the Colorado river, near the Needles;

And whereas, there is due to the said Pacific Improvement Company under its contract of 8th February, 1882, the sum of ($1,237,885) one million two hundred and thirty-seven thousand, eight hundred and eighty-five dollars for the construction of said road and telegraph line from Station 1489* to Station 300* 79 being to the west bank of theColorado river—a distance of 22 507-1000 miles—and in accordance with said contract it is entitled to receive said sum in bonds and stock of this company, viz: in bonds $562,675.00 (as near as may be) and in stock $675,210.[illegible] (as near as may be);

Therefore, be it resolved that the said 22 507-1000 miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said

Pacific Improvement Company the amount of $562,000 in bonds, and the amount of 675,200 in stock, in accordance with said contract, taking a proper voucher therefor, and the secretary is further instructed to place the remaining amount of $685.00 to the credit of said Pacific Improvement Company, on open account.

* * * * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

I hereby certify that the foregoing 93 pages have been compared by me with the original thereof, and I find them to be a full, true, and correct copy of those portions of the minutes of the board of directors of the S. P. R. R. Co. offered in evidence before me on behalf of the complainants on cross-examination of defendants' witness, J. L. Wilcutt.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Exhibit before the Special Examiner "L." Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Mr. REDDING.—Defendants offer in evidence, by reference, in the same manner that we offered yesterday the postmaster general's reports, the report of the auditor of railroad accounts for 1880, officially published as follows: "Annual report of the auditor of railroad accounts made

to the secretary of the interior for the year ending June 30, 1880. Washington Government Printing Office, 1880," for the purpose of showing the *relatings* between the Southern Pacific Railroad Company and the Government of the United States with reference to the accounts and reports rendered by the Southern Pacific Railroad Company to the Government of the United States, in accordance with the instructions of Congress given to the auditor of railroad accounts, and I ask that they be referred to by title only, as it is stipulated that the volume, being an official publication, is before the Court. Is that right, Mr. Call, subject to your objections?

Mr. CALL.—I have no objections to the mode of their being offered, and it may have the same effect as though the volume referred to was filed in the case as an exhibit.

I object to it upon the following grounds: As incompetent, immaterial and irrelevant, and not the best evidence; and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the South-

ern District of California as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2 and 3, and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of State for California, and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

Mr. REDDING.—You do not object to the incompetency of the evidence, as not being the best evidence of the facts therein stated, do you?

Mr. CALL.—I waive any objection to the mode and manner of offering the document, and consent that it may be made by reference within the same effect as if it was now filed before the special examiner as an exhibit in

the case duly offered, but I do object to it upon the grounds stated.

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1881, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1881. Washington Government Printing Office, 1881."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1882, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1882. Washington Government Printing Office, 1882."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1883, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1883. Washington, Government Printing Office, 1883."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1884, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1884. Washington Government Printing Office, 1884."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1885, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1885. Washington Government Printing Office, 1885."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1886, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1886. Washington Government Printing Office, 1886."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1887, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1887. Washington Government Printing Office, 1887."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1888, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1888. Washington Government Printing Office, 1888."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1889, of-

ficially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1889. Washington Government Printing office, 1889."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1890, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1890. Washington Government Printing Office, 1890."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1891, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1891. Washington Government Printing Office, 1891."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1892, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1892. Washington Government Printing Office, 1892."

(Same objection.)

Mr. REDDING.—These are all offered by reference under Mr. Call's stipulation, as official publications from the Government Printing Office, and for the purpose of showing the receipt of the reports of the Southern Pa-

cific Railroad Company sent to the commissioner of railroads, and set forth by him in the said annual reports to Congress and to the various officers of the Government.

Mr. CALL.—All under the same objections.

Testimony of CHARLES J. WILDER.

CHARLES J. WILDER, called as a witness on behalf of the defendants, being duly sworn, testified as follows:

Direct Examination.

Mr. REDDING.—Q. What is your present occupation?

A. I am freight auditor of the Southern Pacific Company.

Q. How long have you occupied that position?

A. Since the company came into existence.

Q. In 1885; A. In 1885; yes, sir.

Q. As auditor of the Southern Pacific Company do you have anything to do with the freight accounts of the Southern Pacific Railroad Company?

A. Only in so far as they are covered by their relations to the Southern Pacific Company.

Q. Do the accounts for freight transported over the line of the Southern Pacific Railrad Company between Mojave, by the way of Los Angeles, to Fort Yuma, in any way come under your inspection or official action?

A. Yes, sir.

Q. In what way?

A. All the accounts covering freight of any character moved over that line are kept by me, kept in my office.

Q. Has the Southern Pacific Railroad Company through its lessee, the Southern Pacific Company, any relations with the Government of the United States between the points named with reference to the transportation of governmental effects over the line of the Southern Pacific Railroad Company?

(Question objected to by Mr. Call as incompetent, immaterial and irrelevant, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States *States* and the United States Circuit Court for the Southern District of California, as shown by records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibit 1, 2 and 3. and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in

these lands, and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco, and the records of the office of the secretary of State for California and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

A. Yes, sir; such freight is being constantly transported.

Q. What is the method of the Government obtaining transportation of freight—I am now speaking of other than postal service, over the line of the Southern Pacific Railroad Company between the points named?

(Same objection.)

A. Freight is presented in exactly the same manner that any freight from a commercial house would be, and is handled and carried through in the same way.

Q. Who presents the freight on behalf of the Government?

(Same objection.)

A. Usually the freight is shipped through the quartermaster's department, and their teamsters present the freight at the warehouse.

Q. Do you know, as a fact, whether the Southern Pacific Railroad Company between the points named holds itself all of the time in readiness to transport the freight of the Government, such as munitions of war, soldiers, etc.?

(Same objection.)

A. It does; through its relations with the Southern Pacific.

Q. Does it do this through its lease with the Southern Pacific Company at present?

(Same objection.)

A. Yes, sir.

Q. Will you state in what manner accounts are made up between the Government of the United States on the one side and the Southern Pacific Railroad Company through its lessee, the Southern Pacific Company, on the other, for Government transportation?

(Same objection.)

A. Accompanying the various shipments of Government freight is a bill of lading, which is an acknowledgment by the railroad company that they have received the freight from the shippers, usually the quartermaster, for transportation to the various points to which it is destined. This bill of lading accompanies the freight through to its destination and is there signed, what is called accomplished, by the consignee, acknowledging that he has received this freight, that the transportation has been performed; these documents are then returned to my office, and I make up an account against the Government in the name of the Southern Pacific Company

for the transportation, and present these bills of lading as the evidence of the transportation having been performed.

Q. How are the accounts for such transportation settled as between the Southern Pacific Company and the Government and afterward between the Southern Pacific Company and the Southern Pacific Railroad Company?

(Same objection.)

A. The account is made in the name of the Southern Pacific Company and presented to the accounting officers of the Government, and is settled the same as any other account should be.

Q. Are the same prices for transportation received by the Southern Pacific Company, as lessee of the Southern Pacific Railroad Company, for transportation of soldiers and governmental effects between the points named over the Southern Pacific Railroad Company as are received for a like service performed for individuals?

(Same objection.)

A. Our accounts are all based on those same rates; yes, sir.

Q. Is it not a fact that in the appropriations by Congress a less rate is allowed for governmental transportation for this particular road?

(Same objection.)

A. I know what you mean, but it is hardly in that shape; that only applies to the army appropriation act; there is in the army appropriation act a clause which says that disbursements of money from that fund shall be not

to exceed 50 per cent of the regular charges; the charge is extended at the same rate, but a portion of that charge is disallowed.

Q. Do you know why that is the case?

(Same objection.)

A. That is one of the conditions in the appropriation act.

Q. Then I understand that the rate made up and charged to the Government is the same rate so far as your office is concerned as would be charged to individuals?

(Same objection.)

A. Certainly.

Q. Do you know how much is allowed by the Government for the Southern Pacific Railroad Company through its lessee, the Southern Pacific Company, and between the points named of that rate?

(Same objection.)

A. 50 per cent of that charge.

Q. Can you produce any settled account between the Government and the Southern Pacific Company, as lessee of the Southern Pacific Railroad Company, for transportation recently performed between the points named?

(Same objection.)

A. I can show you an account for service performed in the months of September, October, and November, 1889, which has been settled, and I can refer you to the date of the settlement and the warrant which was drawn in settlement (producing).

Q. Is this the original?

(Same objection.)

A. Yes, sir.

Q. I understand you now produce an original statement of account for transportation between the United States and the Southern Pacific Company, Pacific System, No. 5,487, on account of the war department for the months of September, October, and November, 1889, for freight, in the sum of $4,089.53, covering transportation, which includes the points named, Tehachapi, by way of Los Angeles to Fort Yuma?

(Same objection.)

A. Yes, sir.

Mr. REDDING.—We offer this in evidence as defendants' Exhibit before the Special Examiner No. 120, and ask that under the stipulation a copy be made of the same and certified by the special examiner, which copy when so made and certified shall stand in lieu of the original.

Mr. CALL.—I have no objections to the special examiner making a copy and certifying to the same. I will object to the introduction of the paper in evidence on the ground that it is incompetent, immaterial, and irrelevant, and not the best evidence; and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further

ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Examiner Nos. 99 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States land-office at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of state for California and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands, and the further objection that the Southern Pacific Company mentioned in the account and referred to by the witness is a different corporation from the Southern Pacific Railroad Company, and that the Southern Pacific Company is not a party to this suit.

Mr. REDDING.—Q. Is this exhibit we have offered the original from which an exact copy was made and forwarded to the war department?

(Same objection.)

A. Yes, sir.

Q. They were compared under your own supervision?

(Same objection.)

A. Yes, sir.

Q. Is this a form similar to those used for other accounts of like nature with the Government?

(Same objection.)

A. Yes, sir.

Q. For how many years has the Southern Pacific Railroad Company performed transportation for the Government between the points named and under similar procedure as herein testified to?

(Same objection.)

A. Ever since the road has been in operation.

Q. Do you know, as a fact, whether the line of the Southern Pacific Railroad Company from Mojave, by the way of Los Angeles, to Fort Yuma, has always been maintained as a first class railroad for governmental transportation?

(Same objection.)

A. So far as I am able to know, not being an expert.

Q. Don't you know, as a fact, that the road has been used all the time for that purpose?

(Same objection.)

A. Yes, sir.

Q. Have not accounts been audited for freight transported for the Government during these years?

(Same objection.)

A. Yes, sir.

Q. Prior to the 50 per cent rate of the charge being allowed what was the percentage allowed?

(Same objection.)

A. The full payment.

Mr. CALL.—Q. When was it changed to 50 per cent?

A. This last Congress; the previous Congress it was 60.

Q. What was it before that?

A. Full payment.

Mr. REDDING.—Q. What is your method of crediting to the Southern Pacific Railroad Company its proportion of these governmental transportation charges?

(Same objection.)

A. They are included in our regular earning statements and apportioned the same as all the other traffic is apportioned over that part of the line.

Q. Do you know, as a fact, whether the Southern Pacific Railroad Company gets its due credit for the governmental transportation between the points?

(Same objection.)

A. Yes, sir.

Q. It does?

(Same objection.)

A. Yes, sir.

Q. Has the Government of the United States recognized the line of the Southern Pacific Railroad Company

between the points named as one of its means of governmental transportation during all these years?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant and not the best evidence; and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad

Company; and upon the further ground that the records of the interior department and of the United States land-office at Los Angeles, and the United States landoffice at San Francisco and the records of the office of the secretary of state of California, and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands, and the further objection that the Southern Pacific Company mentioned in the account and referred to by the witness is a different corporation from the Southern Pacific Railroad Company, and that the Southern Pacific Company is not a party to this suit, and the further objection that the testimony sought calls for a conclusion of law on the part of the witness and the matter has been fully shown by the previous evidence.)

A. Yes, sir.

Q. Have you with you any of the original orders or demands from the Government for governmental transportation over the line of the Southern Pacific Railroad Company?

(Same objection.)

A. Yes, sir (producing).

Mr. REDDING.—Defendants offer in evidence transportation order made by the Government of the United States upon the Southern Pacific Company, wherein the demand is made by the Government that the Southern Pacific Company transport Private F. Armstead and —— pounds of extra baggage of Company C, 10th Regiment Infantry, from San Francisco, California, to Los Angeles, California, by the way of the Southern Pacific

Railroad Company, signed by R. N. Batchelder, Quartermaster General, United States Army, duly countersigned; and ask that it be marked Defendants' Exhibit before the Special Examiner No. 121, and that a copy made by the special examiner be certified and when so certified stand in lieu of the original.

Mr. CALL.—Objected to as incompetent, immaterial, and irrelevant, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act, and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location, and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein, and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn

such lands by constructing a railroad; and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company, and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of state for California, and the public laws of the United States and of California, show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

(Transportation order made by the Government of the United States upon the Southern Pacific Company to transport F. Armstead is marked "Defendants' Exhibit before the Special Examiner No. 121, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence similar order for transportation upon the Southern Pacific Railroad Company, dated June 30th, 1893, and signed by R. N. Batchelder, Quartermaster General of the United States Army, and duly countersigned, calling upon the Southern Pacific Railroad Company to transport Sergeant Charles H. Trask, of Troop G, and two privates, Company C, First Regiment Cavalry, en route from Alcatraz Island, California, to Wilcox, Arizona, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 122," and when a copy is certified by

the special examiner that the copy may stand in lieu of the original.

(Same objection.)

(Order for transportation upon the Southern Pacific Railroad Company, dated June 30th, 1893, to transport Sergeant Charles H. Trask, is marked "Defendants' Exhibit before the Special Examiner No. 122, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Q. Are these two demands or requests for transportation by the Government recently made for transportation upon the Southern Pacific Railroad Company and the Southern Pacific Company?

(Same objection.)

A. Yes, sir.

Q. Was the transportation performed by the Southern Pacific Company as lessee of the Southern Pacific Railroad Company, and by the Southern Pacific Railroad Company in conformity with such demand or request by the Government?

(Same objection.)

A. Yes, sir.

Q. Is that the common form of demand made by the Government for transportation over the line of the Southern Pacific Railroad Company between the points named?

(Same objection.)

A. Yes, sir.

Q. Is it honored by that company in each instance?

(Same objection.)

A. Yes, sir.

Cross-Examination.

Mr. CALL.—Q. What proportion of the full amount of the fare was paid upon that transportation request last referred to?

A. It has not been paid yet. It has never been settled.

Q. Has either one of them been settled?

A. No, sir.

Q. What is the deduction which you say is usually made for a land grant road?

A. 50 per cent.

Q. What was it in 1891?

A. 60 per cent.

Q. What was it in 1890? A. Full payment.

Q. What was it prior to that time?

A. I believe there was a deficiency appropriation that had the same condition of 60 per cent. in it which covered the deficiency of 1890, but the general appropriation was full payment prior to 1891.

Q. Did that cover transportation of troops, munitions of war, public stores and other Government property?

A. Do you mean full payment?

Q. Yes, sir. A. Yes, sir.

Q. How long has the railroad been operated by the Southern Pacific Company of Kentucky?

A. Since 1885.

Q. What deductions were made for land grant roads in paying for transportation of mails prior to 1890?

Mr. REDDING.—We object to the question as not proper cross-examination; I have not asked Mr. Wilder anything in reference to postal service, and I doubt if the witness' testimony would be competent, as not being the best evidence.

A. 20 per cent. reduction.

Mr. CALL.—Q. How long did that deduction continue previous to 1890?

A. I think it was in the law of 1876.

Q. It was all fixed by law? A. Yes, sir.

Q. Are you an officer of the Southern Pacific Company of Kentucky or of the Southern Pacific Railroad Company? A. Southern Pacific Company.

Q. How are the accounts adjusted between the Southern Pacific Company and the Southern Pacific Railroad Company?

A. The accounts are all kept in the name of the Southern Pacific Company, and then monthly we make a distribution of the earnings for the different roads over which service is performed, including the Southern Pacific Railroad Company.

Q. And then there is paid by the Southern Pacific Company of Kentucky the amount called for under the lease? A. Yes, sir.

Q. Has the Government ever made a deduction for transportation of troops and munitions of war and public stores where the service was performed by the Southern Pacific Company of Kentucky and accounts made by that company to the Government?

A. No, sir.

(14th line.—This answer was subsequently corrected. See foot-note on page 680 at the end of Mr. Wilder's testimony. S. P.)

Q. Has the Government ever made deduction for transporting of mails where the service was performed by the Southern Pacific Company of Kentucky?

A. The same deduction as if it had been performed by the Southern Pacific Railroad Corporation.

Q. Then a deduction was in fact made where the service was performed by the Southern Pacific Company of Kentucky?

A. Just the same as if it had been performed by the Southern Pacific Railroad Company.

Q. When was the present contract made for carrying mails from Goshen to Yuma by the Southern Pacific Company of Kentucky?

A. The present arrangement, which is hardly in the nature of a contract, went into effect July 1, 1890; we made no contract so far as having any written agreement; we were obliged to carry the mails; I believe the act compels that, and the compensation is determined by law, based on the weight of the mails carried, which is determined by weighing once in four years.

Q. What is paid to the Southern Pacific Company for carrying mails from Goshen to Yuma?

A. I cannot tell the figures.

Q. What is the mode of keeping the account with the Government—do you make out an account monthly or otherwise, in reference to the transportation of mails?

A. We make no account; the sum paid is a fixed sum

and the postoffice department draw their warrants for the amount quarterly.

Q. And send it?

A. Send it; yes, sir. Of course, we enter up the amounts on our books.

Q. Do you mean to say then that the amount paid now is only half the amount paid to other roads for similar services? A. Not for mails.

Q. How is it for mails?

A. The amount paid for mail transportation is the same to any other land grant road for mail transportation —that is, 80 per cent. of the regular rates.

Redirect Examination.

Mr. REDDING.—Q. Where is Wilcox?

(Same objection.)

A. In Arizona.

Q. How far from San Francisco?

(Same objection.)

A. Say in the neighborhood of 1,000 miles.

Q. The lines of what companies leased by the Southern Pacific Company are used in the transportation of soldiers and other governmental effects, not postal, between San Francisco and Wilcox?

(Same objection.)

A. The Central Pacific between San Francisco and West Oakland; the Northern Railway between West Oakland and Martinez; the Southern Pacific Railroad Company between Martinez and Tracy; the Central Pacific Railroad Company between Tracy and Goshen; the South-

ern Pacific Railroad Company between Goshen and Yuma; the Southern Pacific Railroad Company of Arizona from Yuma east to Wilcox.

Q. Then, if a Government transportation was made by the Southern Pacific Company from San Francisco to Wilcox recently, will you please state how the amounts to be paid by the Government would be adjusted over the several lines of leased railroads used?

(Same objection.)

A. The settlement would be made with the Southern Pacific Company for the entire distance, the payment due the land grant portion of the line being reduced according to the law.

Q. What portion of the distance named is the land grant portion of the line?

(Same objection.)

A. I have not the miles in my mind.

Q. Would it include that portion of the line from Mojave by the way of Los Angeles to Fort Yuma?

(Same objection.)

A. Yes, sir.

Q. Will you state whether the Southern Pacific Company would receive from the Government the same rate for the transportation of soldiers between Mojave, by the way of Los Angeles, and Fort Yuma, and between Goshen and Yuma and between Tracy and Yuma as it would receive from San Francisco to Tracy?

(Same objection.)

A. The rate used is a through rate covering the entire distance from San Francisco to Wilcox.

Q. How would that be apportioned afterward?

(Same objection.)

A. On the basis of the mileage of land grant and nonland grant roads.

Q. Then there would be a difference between the land grant portion of the road and the nonland grant portion of the road?

(Same objection.)

A. In the final settlement there would be a deduction from the land grant portion.

On page 676, line 14, I desire to withdraw my answer "No, sir," and substitute the following answer in lieu thereof: The same deductions have been made as would have been made if settlements had been made with the individual corporations over whose roads the service was performed.

C. J. WILDER.

22101

FOLD OUT IS TOO LARGE TO BE FILMED

Defendants' Exhibit Before the Special Examiner No. 121.

L. No. 77,313.

Not transferable and good only for two days from date.

Quartermaster's Department U. S. Army. Request for transportation. Not valid until countersigned by the issuing officer.

San Francisco, July 7, 1893.

The Southern Pacific Company, via Martinez and Tracy, will please transport Pvt. J. Armstead, ——— pounds extra baggage. Co. C, 10th Regiment Infy. From San Francisco, Cal., to Los Angeles, Cal., via S. P. Co. and S. C. Ry. Co., en route from San Francisco, Cal., to San Diego, Bks., Cal., on continuous journey.

R. N. BATCHELDER,
Quartermaster General,
U. S. Army.

Signature of issuing officer: J. G. C. Lee, Deputy Quartermaster General U. S. A.

Remarks: Settlement for the service to be made according to law by the accounting officer of the treasury. 1st class limited.

The holder of this request or the officer in charge of troops is required to fill the receipt below before signing, stating the exact number of men transported and the places from and to which transportation has been furnished. The receipt should be filled up in ink if practicable, and if the person receipting cannot write his name,

there should be a witness to his mark. Names and places should be written in full, and if the transportation is furnished by other than passenger train, or passenger car, the fact should be stated.

San Francisco, Cal., July 7, 1893.

I certify, on honor, that the Southern Pacific Company, via Martinez and Tracy, has furnished transportation for myself ——— pounds extra baggage, from San Francisco, Cal., to Los Angeles, Cal., in compliance with the above request.

Sign here—James Armstead.

(Printed on the side): Settlement to be made on the basis of the division among the railroads interested of the through rate between ultimate terminal points.

(On the back): San Francisco, July 7, 1893.

I certify that this request is issued upon the authority of Order No. 18, San Francisco Sub. Depot Recruiting Service, C. S., and on account of joining Co. from enlistment.

(Signed) J. G. C. LEE,
Deputy Quartermaster General,
U. S. Army.

The account for the transportation on this request, should be presented to ———, Quartermaster U. S. A. at ———, for settlement.

Paid, Voucher No. ——, Abstract B.

For ———, 18—.

By ———,
Quartermaster U. S. A.

(Stamped): Jul. 10, 1893. 3109. (Stamped): So. Pac. Co. M. Jul. 7, 1893. City Office. San Francisco. (Stamped): Treasurer's Office, Jul. 10, 1893, S. P. Co. (Stamped): Genl. Auditor's Office, S. P. Co., July 10, 1893. San Francisco.

(Marked "Defendants' Exhibit before the Special Examiner No. 121. Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, October 10, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 121. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 122.

L. No. 91,910.

Not transferable and good only for twelve days from date. June 30, 1893. Quartermaster's Department, U. S. Army. Request for transportation. Not valid until countersigned by the issuing officer.

The So. Pac. R. R. Co. will please transport Sgt. Chas. H. Trask, Troop "G" and (2) two privates Co. "C," 1st Regiment Cavalry, from San Francisco, Cal., to Wilcox, A. T., via ————, en route from Alcatraz Isl., Cal., to Fort Grant, A. T., on continuous journey.

R. N. BATCHELDER,
Quartermaster General,
U. S. Army.

Signature of issuing officer: J. B. Aleshire, 1st Lt. and R. Q. M. 1st Cav. A A, Quartermaster U. S. A.

Remarks: Settlements will be made on the basis of the division among the roads interested of the through rate between the ultimate terminal points.

The holder of this request or the officer in charge of troops is required to fill the receipt below before signing, stating the exact number of men transported, and the places from and to which transportation has been furnished. The receipt should be filled up in ink if practicable, and if the person receipting cannot write his name, there should be a witness to his mark. Names and places should be written in full, and if the transportation is furnished by other than passenger train or passenger car, the fact should be stated.

S. F., July 4, 1893.

I certify, on honor, that the S. P. Co. has furnished transportation for myself and one man ——— pounds extra baggage, from San Francisco to Wilcox, Arizona, in compliance with the above request.

Sign here—Chas. H. Trask.

(On the back): Fort Grant, A. T., June 30, 1893.

I certify that this request is issued upon the authority of Sar. IV, Post Order No. 92, dated June 29, 1893, issued in compliance with Sar. IV, S. O. No. 103 C. S. Headquarters, department of Arizona, and on account of guard returning to proper station, after escorting military convict to Alcatraz Island, Cal.

J. B. ALESHIRE,

1st Lt. and R. Q. M. 1st Cav. A A, Q. M. U. S. Army.

The account for the transportation furnished on this request should be presented to ————————, Quartermaster U. S. A., at ————————, for settlement. Paid, Voucher No. ———— Abstract B.

For ————————

By ————————,
Quartermaster, U. S. A.

(Stamped): July 6, 1893, 3196. (Stamped): Treasurer's Office, Jul. 6, 1893, S. P. Co. (Stamped): Genl. Auditor's Office, S. P. Co., Jul. 6, 1893, San Francisco.

(Marked "Defendants' Exhibit before the Special Examiner No. 122, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, October 10th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 122. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 132.

F. D. W. J. M.
C. S. B. (4—207.)

Department of the Interior,
General Landoffice,
Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of the

letter of Acting Secretary B. R. Cowen, dated May 11, 1874, and copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,
Acting Commissioner of the General Landoffice.

Lands
&
Railroad.

Z. B. S. Department of the Interior,
Washington, D. C., 11th May, 1874.

Sir: I transmit herewith, for appropriate action, a map of 50 miles of the Southern Pacific Railroad, showing the line of that road from a point in the N. W. ¼, section 3, township 2 N., R. 15 W., San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction to the termination of the 50th mile therefrom, at a point in the N. E. ¼, section 27, township 1 S., range 9 W., same base and meridian.

I also send you a copy of Dept. — letter of the 8th inst., to the President of the United States, recommending the

acceptance of this portion of road, and of his endorsement thereon, of the 9th inst., accepting it.

Very respectfully,

Your obt. Servant,

R. B. COWEN,

Acting Secretary.

To Hon. W. W. Curtis, Acting Commissioner, G. L. O.

(Copy.) Department of the Interior,

Washington, D. C., 8th May, 1874.

Sir: I have the honor to submit herewith for your action the report, dated 15th ultimo, of Messrs. Foulke, Brown & Sullivan, appointed by you to examine and report upon the Southern Pacific Railroad and Telegraph Line. They have examined the 50 miles of road, etc., commencing at a point in the N. W. ¼, section 3, township 2 N., range 15 west, San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, ending at the termination of the 50th mile therefrom, at a point in the N. E. ¼, section 27, township 1 S., range 9 W., same base and meridian.

The commissioners in their report represent (with exception of a few defects which the company promise to remedy hereafter) that this portion of road is completed and equipped as a first-class railroad, and that the telegraph line is finished for the same distance, and is first

class. I therefore respectfully recommend the acceptance of the same, and the issue to said company of patents for lands due on account of the construction thereof, agreeably to the provisions of the "act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," approved 27 July, 1866, and the acts amendatory thereof, approved 25 July 1868, and 28th June, 1870.

Very respectfully,

Your ob't servant,

R. B. COWEN,

Acting Secretary.

To the President.

[Endorsed]: Department of the Interior, 8th May, 1874. B. R. Cowen, acting secretary, submits to the President report of commissioners on 1st section of fifty miles of Southern Pacific R. R. Executive Mansion, May 9, 1874. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 132. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 133.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter of the secretary of the interior, dated Nov. 13, 1875, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General landoffice.

Land

& RR.

Z. B. S.

Department of the Interior,

Washington, D. C., 13th Nov., 1875.

Sir: I transmit herewith, for appropriate action, a map of fifty miles of the railroad constructed by the Southern Pacific Railroad Company of California under the act

of the third of March, 1871, which authorized said company to build a line "from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river." The section delineated on the map begins at a point in the N. E. ¼, sec. 27, T. 1 S., R. 9 W., San Bernardino base and meridian, and ends in a point in the S. W. ¼, sec. 4, T. 3 S., R. 1 W., same base and meridian.

I also transmit herewith copy of a letter addressed by me on the 8th instant, to the President, recommending the acceptance of said section, and of his indorsement thereon approving the recommendation.

I am, sir,

Very respectfully,

Your obt. servant,

Z. CHANDLER,

Secretary.

Hon. S. S. Burdett, Comm'r Gen. Landoffice.

(Copy.)

Department of the Interior,

Washington, D. C., 8th Nov., 1875.

Sir: I have the honor to submit herewith for your consideration and, if deemed proper, for your approval, the report under date of the 21st ult. of Messrs. Foulke, Brown & Sullivan, commissioners appointed by you to examine the Southern Pac. R. R. and Telegraph Line of California. They have examined an additional section of 50 miles of the (branch) road and telegraph line

authorized by the 23rd section of the act of 3d March, 1871 (known as the Texas Pac. R. W. act), to be constructed by the said Southern Pac. R. R. Co. This portion of road commences at the termination of section 1 of said branch, at a point in the N. E. ¼ of section 27, T. 1 S., R. 9 W., San Bernardino base and meridian, and runs thence 50 miles to a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first-class.

I therefore respectfully recommend the acceptance of said 2d section of 50 miles of branch road and the issuance to the company constructing it of patents for lands due on account of such construction, agreeably to the provisions of law.

Very respectfully,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the Interior, 8th Nov., 1875. Z. Chandler, Secretary, submits to the President report of commissioners on 2d section of branch line, of Southern Pac. R. R. of California. Executive Mansion, Nov. 11, 1875. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 133. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 134.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter from the secretary of the interior, dated July 22, 1876, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General Landoffice.

Z. B. S.

Department of the Interior,

Washington, D. C., 22nd July, 1876.

Sir: I tranmit herewith a map and profile of the 3rd section (50 miles) of the branch line of the Southern Pacific Railroad of California; also copy of letter addressed by me to the President, on the 10th inst., submitting the

report of the commissioners who examined said section, with copy of his indorsement thereon, the 21st instant.

I am, sir,

Very respectfully,

Your ob't servant,

Z. CHANDLER,

Secretary.

Hon. J. A. Williamson, Com'r Gen. Landoffice.

(Copy.)

Department of the Interior,

Washington, D. C., 10 July, 1876.

Sir: I have the honor to submit herewith for your examination, and if deemed proper for your approval, the report, under date of the 22d ultimo. of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific Railroad and telegraph line of California. They have examined the 3d section of fifty miles of the branch road and telegraph line authorized by the 23d section of the act of 3d March, 1871 (known as the Texas Pacific Railway act), to be constructed by the Southern Pacific Railroad Company. This portion of road begins at the termination of section No. 2 of said railroad at a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., San Bernardino base and meridian, and running thence in a southeasterly direction fifty miles to a point in the S. W. ¼ of sec. 24, T. 5 S., R. 7 E., same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first-class. I therefore respectfully recommend the acceptance of said 3d section of fifty miles of branch road, and the issuance to the company constructing it of patents for lands due on account of such construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the Interior, 10th July, 1876. Z. Chandler, secretary, submits to the President report of commissioners on 3d section of 50 miles, branch line of So. Pac. R. R. of Cal. Executive Mansion, July 21, 1876. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 134. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 135.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter of acting secretary of the interior, dated March 3, 1877, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General Landoffice.

Z. B. S.

Department of the Interior,

Office of the Secretary,

Washington, D. C., 3d March, 1877.

Sir: I transmit herewith, for appropriate action, copy of letter addressed by the department to the President on the 1st instant, recommending his acceptance of the 4th

section (Branch line) 78 59-100 miles of the Southern Pacific Railroad of California, and copy of his endorsement thereon yesterday, approving the recommendation. The map accompanying the report of the commissioners will also be found herewith.

I am, sir,

Very respectfully,

Your ob't servant,

CHAS. T. GORHAM,

Acting Secretary.

Hon. J. A. Williamson, Com'r Gen. Landoffice.

(Copy.)

Department of the Interior,

Washington, D. C., 1st March, 1877.

Sir: I have the honor to submit herewith for your consideration and if deemed proper for your approval, the report, under date of the 17th ultimo, of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific Railroad and telegraph line of California. They have examined the 4th section, 78.59 miles of the road, which said company are authorized by the 23d section of the act of 3d March, 1871 (16 Stat. 579), to build Said section begins at a point in the N. W. ¼ of sec. 3, T. 2 N., R. 15 W., San Bernardino base and meridian, runs northerly, and ends at a point in the N. E. ¼, sect. 17, T.

11 N., R. 12 W., same base and meridian. They report said section as completed and equipped as a first-class railroad, and the telegraph line also as completed and first-class. I therefore respectfully recommend the acceptance of said 4th section, and the issuance to the company constructing it of patents for lands due on account of said construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

CHARLES T. GORHAM,

Acting Secretary.

The President.

[Endorsed]: Department of the Interior, 1st March, 1877. Charles T. Gorham, acting secretary, submits to the President report of commissioners on 4th section (branch line), 78.59 miles, of So. Pac. R. R. of California. Executive Mansion, March 2, 1877. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 135. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 136.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter from the secretary of the interior, C. Schurz, dated January 30, 1878, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General Landoffice.

Z. B. S.

Department of the Interior,

Office of the Secretary,

Washington, D. C., 30th January, 1878.

Hon. J. A. Williamson, Comm'r Gen. Landoffice.

Sir: I transmit herewith, for your information and appropriate action, copy of my letter of the 19th instant

to the President, recommending the acceptance of a portion of the 5th section of the Southern Pacific Railroad of California, and of his endorsement thereon of the 23d instant; also the map which accompanied the report of the commissioners who examined said section.

I am, sir,

Very respectfully,

Your obt. servant,

C. SCHURZ,

Secretary.

(Copy.)

Department of the Interior,

Office of the Secretary,

Washington, D. C., 19th January, 1878.

Sir: I have the honor to submit herewith for your consideration the report, under date of the 6th ultimo of Messrs. Eugene L. Sullivan, Andrew S. Bender and Zebulon B. Sturgus, commissioners appointed by you to examine the Southern Pacific Railroad and Telegraph line of California.

They have examined the 5th section of what is known as the branch line of said road, authorized by the 23d section of the act of 3d March, 1871, incorporating the Texas Pacific Railroad Company (16 Stat. 579). Said section is 118.37-100 miles in length. It begins at a point in the S. W. ¼ of section 24, T. 5 S., R. 7 E., San Bernardino base and meridian; runs southeastward and ends in the center of the Colorado river, at a point which, if the United States surveys were extended into said river,

would be in the S. E. ¼ of sec. 26, T. 16 S., R. 22 E., same base and meridian.

The commissioners report said section as completed and equipped as a first-class railroad and the telegraph line also as completed and first class.

Said 23d section of the act of 1871, authorizes the Southern Pacific Railroad Company of California to construct its road "to the Texas Pacific Railroad at or near the Colorado river." The Texas Pacific Railroad not having been constructed at or near said river, the point of contact of said roads has not been ascertained except as to the fact that it is within the Fort Yuma military reservation.

In view of your action last autumn in relation to said Southern Pacific Railroad's crossing said reservation, I have the honor to recommend that said section examined and reported on be accepted from the point of beginning to the point where the road intersects the western boundary of said reservation, which is represented on the map accompanying said report as a point in the S. E. ¼ of N. E. ¼, sec. 27, T. 16 S., R. 22 E., San Bernardino base and meridian, and that patents for lands due on account of construction, according to provisions of law, issue to said Southern Pacific Railroad Company of California.

I am, sir,

Very respectfully,

Your ob't servant,

C. SCHURZ,

Secretary.

The President.

[Endorsed]: The secretary of the interior, 19th January, 1878, submits report of commissioners on the 5th section; 118.37 miles of Southern Pacific Railroad, authorized by act of 3d March, 1871, and recommends that the road examined be accepted from the beginning of said section to the point where it crosses the western boundary of Fort Yuma military reservation, Cal. Executive Mansion, January 23, 1878. The recommendations of the secretary of the interior are hereby approved. The section of railroad is accepted between the points designated by him, and lands will be patented to the company accordingly. R. B. Hayes.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 136. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 137.

M. C. P. A. M.

Department of the Interior,

Washington, October 4, 1893.

D. A. Chambers, Esq., City.

Sir: I have at hand your letter of yesterday asking to be advised of the dates of receipt and filing in the department of the reports of the commissioners, and accompanying maps and profiles, on the completed sections of the Southern Pacific Railroad of California, branch line.

In answer I have to state that the report, with accompanying map and profile, of the first section, with letter of May 4, 1874, from C. P. Huntington was received and filed May 7, 1874; that of the second section from same person with letter of November 5, 1875, was received and filed November 6, 1875; that of the third section from same person with an undated letter was received and filed July 10, 1876; that of the fourth section from same person with letter of February 27, 1877, was received and filed February 28, 1877, and that of the fifth section from same person with letter of December 26, 1877, was received and filed December 28, 1877.

Very respectfully,

WM. H. SIMS,
Acting Secretary.

11282-'93.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 137. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

San Francisco, October 3, 1893.

Testimony of G. L. LANSING.

G. L. LANSING, called as a witness on behalf of the defendants, being duly sworn testified as follows:

Direct Examination.

Mr. REDDING.—Q. What is your present occupation?

A. I am secretary and controller of the Southern Pacific Company.

Q. As such controller, do you have any official relations with the accounts of the Southern Pacific Railroad Company and its dealings with the Government of the United States?

A. Yes, sir; the Southern Pacific Company is the lessee of the Southern Pacific Railroad Company's property.

Q. What are your official duties with respect to the Southern Pacific Company and the Southern Pacific Railroad Company, acting in the capacity you have named?

A. I have control of the settlement of accounts in connection with the operation of the Southern Pacific Railroad, and in connection with the transportation by the Southern Pacific Railroad for the United States Government of mails, troops, military supplies, and so forth, and I have charge of all matters affecting the operations of the Southern Pacific Railroad lines so far as the accounting is concerned and the settlement of the accounts.

Q. Are you in communication officially with the Government of the United States in connection with these matters? A. Yes, sir.

Q. The Southern Pacific Railroad Company branch line, as it is known, has a grant to it under the act of Congress of March 3, 1871; the terms of this grant provide for the railroad to be constructed, and when constructed to be maintained as a first-class road, and to be at all times subject to the use of the United States for a mili-

tary and postal road, and for the transportation of the effects of the Government and munitions of war etc. Will you state whether or not there is the relation established between the Government of the United States and the Southern Pacific Railroad Company under this act of Congress by which this road between a point at or near Tehachapi, by way of Los Angeles, to Fort Yuma has been and is now being used for the purposes that I have enumerated?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company, made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Ex-

aminer Nos. 88 and 89, has surrendered to the United States all interest in these lands and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad; and upon the further ground that the mortgage of 1875, to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco, and the records of the office of the secretary of State for California, and the public laws of the United States and of California, show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.)

A. Yes, sir; the relations which at present exist and are recognized between the Southern Pacific Railroad Company, its lessee, the Southern Pacific Company, and the officials of the United States Government, so far as my business relations with them are concerned, are those that have been and are provided for by the act of Congress referred to in the question.

Q. Do you know of your own knowledge whether or not the Government of the United States is using the line of railroad of the Southern Pacific Railroad Company, one of the defendants in this action, from a point at or near Tehachapi Pass, by the way of Los Angeles, to a point on the Colorado river, near Yuma, for the purpose of transporting its postal business and troops, munitions of war, stores, and other Government effects?

Mr. CALL.—Mr. Redding, does our understanding still continue in regard to inserting the words "same objection" to stand in lieu of the objection previously made?

Mr. REDDING.—I understand that it does.

Mr. CALL.—Insert "same objection" to each question.

(Same objection.)

A. Yes, sir; it is.

Mr. REDDING.—Q. Will you state how this information and knowledge comes to be known by you officially?

(Same objection.)

A. In my official position it is my business to settle the accounts between the United States and the Southern Pacific Railroad Company for transportation of mails, troops, military supplies, etc., for the Government over the line of railroad named, and by that means I know personally of the transportation being performed and the terms of its settlement on the part of the part of the Government.

Q. Will you please produce the last official report of these transactions issued by the postmaster's department of the Government, and state therefrom under what rules and regulations of the postal department the Southern Pacific Railroad Company, one of the defendants in this action, is now proceeding with reference to Government transportation?

(Same objection.)

A. The volume that I have before me is the postal laws and regulations of the United States of America, published in Washington, at the Government printing office in 1893; this volume gives the regulations relating

to the transportation of mails, and the laws upon which they are based; sections 716, 717, 718 and 719 in this volume, pages 293 and 294, state the method of fixing the rate for the transportation of mail as provided by law, covering all the railroads in the United States, and finally referring to land grant roads; relating to land grant roads, section 719 recites that "railroad companies whose railroad was constructed in whole or in part by a land grant made by Congress on the condition that the mails should be transported over their road at such price as Congress should by law direct, shall receive only eighty per centum of the compensation authorized by this act; act of July 12, 1876."

Q. Is the law that you have just quoted the one that is being applied by the postal department of the United States to the transactions of the Southern Pacific Railroad Company between the points named in reference to governmental transportation?

(Same objection.)

A. Yes, sir; it is.

Mr. REDDING.—Defendants ask leave to refer to the postal laws and regulations of 1893, printed at the Government printing office, and entitled as follows: "Postal laws and regulations of the United States of America, compiled, revised, and published in accordance with the act of Congress, approved March 3, 1891, Washington, Government printing office, 1893," and so much thereof as may refer to land grant railroads, and in particular to the Southern Pacific Railroad Company, one of the defendants in this action; and ask that the same may

be considered in evidence; and the defendants hereby offer in evidence this volume, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 97," or in lieu of its being offered in evidence that it may be so considered by this Court as an official document in the record.

(Same objection.)

Mr. CALL.—I have no objections to its being considered in evidence by reference, without the necessity of burdening the record by having it actually filed as an exhibit.

Mr. REDDING.—That being satisfactory, we will so consider it.

Mr. CALL.—Yes, sir; subject to the objections made.

Mr. REDDING.—And I understand that on your part to all intents and purposes it is in evidence?

Mr. CALL.—Yes, sir.

Mr. REDDING.—Without objection as to the incompetency of the volume, as an official document.

Mr. CALL.—It is in evidence with the same effect as if it had actually been filed and marked as an exhibit in the case.

Mr. REDDING.—Q. Please show how this is so.

(Same objection.)

A. The report of the postmaster general of the United States for 1890, pages 450 and 451, contains a table showing readjustment of the rates of pay for mail on railroad routes in states and territories in which the contract term expired June 30, 1890; on page 450 among the routes enumerated is route 176,014, Goshen, Cali-

fornia, to Yuma, Arizona, particular title of the company carrying the mail is the Southern Pacific Company, the length of the road is 490.55-100 miles, the average weight of mails carried over entire route per day is 4,737 pounds, the pay per mile per annum for transportation $133.38, for 4,737 pounds, average weight of mail carried over entire route per day; by referring to the postal laws and regulations above quoted it will be seen that the compensation as fixed by those law requires the ascertainment of the average weight of mails carried over the entire route per diem; applying the laws upon the average weight here shown 4,737 pounds, the calculation will show that the rate which the postmaster general reports as being paid, namely, $133.38 per mile per annum is eighty per centum of the rate allowed by section 719 of the postal laws and regulations above referred to; this showing that the postoffice department, in fixing the rate for the contract term commencing with July 1, 1890, recognized the operation of the land grant act of the Southern Pacific Railroad, in allowing but eighty per cent of the usual compensation for the service.

Q. That refers to what years?

(Same objection.)

A. The laws of the postoffice department affecting the transportation of mails requires they shall be based upon weighings made for thirty consecutive days, at least once in four years; they allow the term generally to run for four years, but it may be changed by order of the postmaster general before the end of that term; the rate here fixed went into effect July 1, 1890, and is still in effect.

Q. Do you know whether or not the Southern Pacific Railroad Company, by its lessee, the Southern Pacific Company, is transporting the mails of the Government between the points named, namely, from Tehachapi Pass, by the way of Los Angeles, to Fort Yuma upon the basis stated by you, and in accordance with the rates fixed, as stated by you, from the official records?

(Same objection.)

A. Yes, sir; it is.

Q. Prior to the last adjustment of rates, which, as you state, dates from 1890, what was the rate fixed, and under what rates was the Southern Pacific Railroad Company doing this business?

(Same objection.)

A. The compensation fixed under the law by the postmaster general on the same route, namely, from Goshen to Yuma, covering the contract period of four years ending June 30, 1890, was $123.80 per mile per annum; the payment for this period was made to the Southern Pacific Railroad Company, as appears by the report of the postmaster general for 1890, at page 365.

Q. Why was it made to the Southern Pacific Railroad Company in that instance, and why was it made to the Southern Pacific Company in the instance cited by you before?

(Same objection.)

A. The reason I suppose to be that the lease of the Southern Pacific Railroad to the Southern Pacific Company was made in 1885; the readjustment of pay on which this rate was based by the postmaster general was made

July 1, 1886; at that time there was a question as to the proper relations of the Southern Pacific Railroad Company to the Central Pacific Railroad Company, which was the former lessee of the Southern Pacific Railroad; this led to some disputes between the accounting officers of the treasury department of the Government, and to avoid any mistake being made as to the proper payee they used the name of the lessor company, namely the Southern Pacific Railroad Company, and made settlements with that Company direct.

Q. From what period of time were the rates last stated by you applied to the governmental transportation of the Southern Pacific Railroad Company between the points named?

(Same objection.)

A. I think that was answered in the previous answer; I said for four years ending June 30, 1890.

Q. That would carry it back, then, to June 30, 1886?

(Same objection.)

A. Yes, sir.

Q. Do you know as a fact that the Government of the United States used this portion of the road of the Southern Pacific Railroad Company, namely, between Tehachapi and Fort Yuma, by the way of Los Angeles, for the transportation of Government troops, munitions of war, postal service, and other effects during that time?

(Same objection.)

A. Yes, sir; I do.

Q. What were the rates prior to 1886 allowed by the Government to the Southern Pacific Railroad Company,

or its lessees, for similar use and over the same portion of the road, for mails, munitions of war, and all governmental purposes?

(Same objection.)

A. The rates for the transportation of mails can be shown by the annual reports during the period published by the postmaster general; the rates for the transportation of the army, military supplies, etc., were those which were provided by the tariffs of the railroad company from time to time, covering the particular property transported or the persons.

Mr. REDDING.— We offer in the same manner the report of the postmaster general for the year ending June 30, 1890, and particularly the pages cited by the witness. This volume is entitled in the public print as follows: "Annual report of the postmaster general of the United States for the fiscal year ending June 30, 1890, Washington government printing office, 1890," with the understanding that it shall be considered in evidence to all intents and purposes, without its being filed.

Mr. CALL.—That is satisfactory; and subject to the same objections.

Mr. REDDING.—Q. Have you the postmaster general's report for the four years preceding 1886?

(Same objection.)

A. I have the report here for the year 1886 (producing); the report of the postmaster general for 1886, page 312, shows the rate on the route from Goshen, California, to Yuma, Arizona, over the Southern Pacific Railroad, 490.33-100 miles, at $110.13 per mile, per annum; this

covers the period of four years ending on June 30, 1886; a note on the table opposite the item reads as follows: "Land Grant"; that note is used in those cases where the reduction is made in fixing the compensation allowing but eighty per cent of the usual rates for roads having land grants.

Q. Do you know as a fact whether that was the rate received by the Southern Pacific Railroad Company for the transportation of the postal service between the points named during that period of time from the Goverment?

(Same objection.)

A. It was during that time either received from the Government or credited in account with the Central Pacific Railroad Company, lessee of the Southern Pacific Railroad at that time.

Mr. REDDING.—Defendants offer in evidence, in the same manner as the last exhibit was offered, report of the postmaster general for 1886, which has the official title as follows: "Annual report of postmaster general of the United States for the fiscal year ending June 30, 1886, Washington government printing office, 1886"; and we particularly refer to the pages cited by the witness; and I ask that this be admitted in evidence in the same manner as the last exhibits, without the necessity of this volume being filed as an exhibit at this time.

Mr. CALL.—That is understood, subject to the same objections.

Mr. REDDING.—Q. Prior to 1882, what rates were allowed to the Southern Pacific Railroad Company for postal service between the points named?

(Same objection.)

A. The report of the postmaster general for 1882 on page 172 shows readjustment of rates in effect July 1st, 1881, on route 46,014 from Goshen to Yuma 490 33-100 miles, at the rate of $110.13 per mile per annum.

Q. And prior to that, what rates were charged?

(Same objection.)

A. The rates prior to that are shown on same page of same report to have been $75.24 per mile per annum, and this rate was also in effect on June 30th, 1879, as shown by the report of the postmaster general for the year 1879, at page 99; in the report of the postmaster general for the year 1878, page 151, a table is given showing the readjustment of the rates of pay on contracts which expired June 30th, 1878; on page 150 appears, route 40,014, Huron to Yuma, a distance of 530 29-100 miles, rate of pay per mile per annum $79.20; a note on this page recites that 54½ miles apply from November 1st, 1875, from May 5th, 1877, between Colton and Yuma, the residue of the route from July 1st, 1877; the report of the postmaster general for 1877, on page 57, shows that the compensation paid on June 30th, 1877, being the rate at that time in effect on route 46,014 from Goshen to Caliente, a distance of 95 71-100 miles, being at the annual rate per mile per annum of $54; a note states that pay on 54 40-100 miles is estimated; this is the commencement of compensation on the line as constructed southerly from Goshen.

Q. Have you now stated the rates as regulated by the Government of the United States with reference to the

Southern Pacific Railroad Company between the points named, namely, Tehachapi and Fort Yuma, by the way of Los Angeles, from the commencement of the construction of the road down to the present time?

(Same objection.)

A. Yes, sir.

Mr. REDDING.—The defendants offer in evidence in the same manner as heretofore—that is to say, by reference—the report of the postmaster general for 1877, and we particularly refer to the pages cited by the witness, which report is officially declared to be as follows: "Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1877, Washington, government printing office, 1877."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same manner, the report of the postmaster general for 1878, which is officially published to be as follows: "Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1878, Washington, government printing office, 1870," with particular reference to the pages cited by witness.

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same manner, the report of the postmaster general for 1879, officially published to be as follows: "The annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1879, Washington, government printing office, 1879," with particular reference to the pages cited by witness.

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the postmaster general for 1880, in the same manner, officially published to be as follows: Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1880, Washington, government printing office, 1880," with particular reference to the pages cited by witness.

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence report of the postmaster general for 1882, in the same manner, officially published as "Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1882, Washington, government printing office, 1882," with particular reference to the pages cited by the witness; and I ask, Mr. Call, that each one of these may be considered as introduced in evidence by reference, without the necessity of the introduction of them in the records of the case by exhibit mark.

Mr. CALL.—I have no objection to their being offered by reference to the same effect as if they were filed, saving my objections to the evidence heretofore made.

Mr. REDDING.—Q. You have stated that in some instances these rates were allowed direct to the Southern Pacific Railroad Company, and in other instances to the Southern Pacific Company, lessee of the Southern Pacific Railroad Company, and in other instances to the Central Pacific Railroad Company, lessee of the Southern Pacific Railroad Company; will you state in what manner the adjustment was made between the Southern Pacific Railroad Company and its lessees when the rates were al-

lowed to the latter and not to the Southern Pacific Railroad Company direct?

(Same objection.)

A. During the time that the railroad between Goshen and Yuma was leased to the Central Pacific Railroad Company, compensation for United States transportation on that road was withheld by the treasury department on account of the indebtedness of the lessee, the Central Pacific Railroad Company, to the Government, owing to the issue of Government bonds made for the construction of that road; the settlement with the Government, however, for the transportation of mails, as shown by the reports of the postmaster general just quoted, and on the pages named, was made in each case with the Southern Pacific Railroad Company by the United States Government, and the Central Pacific lessee received no payment for the transportation, for each of the years named from the time of the commencement of construction from Goshen, California, southwards towards Yuma—

Mr. REDDING (interrupting).—Let me interrupt you, Mr. Lansing. When you speak of Goshen do you speak of a portion of the main line road which runs by way of Goshen to Tehachapi, and thence by way of Los Angeles to Fort Yuma?

(Same objection.)

Q. You mean on the main line grant?

(Same objection.)

A. Yes, sir; on the main line running southerly through the San Joaquin Valley; the line through the upper portion of the valley was constructed by the Cen-

tral Pacific to Goshen; at Goshen the Southern Pacific construction commenced.

Mr. CALL.—Q. From San Francisco to Goshen was built by the Central Pacific?

A. Yes, sir.

Q. And from Goshen below southward it was built by the Southern Pacific Railroad Company?

A. Yes, sir; I was saying that from the commencement of the construction of the Southern Pacific Railroad from Goshen on the main line near the Tehachapi Pass towards Yuma the transportation for the United States has been accounted for by the United States Government in the name of the Southern Pacific Railroad Company.

Mr. REDDING.—Q. With reference to the use of this line of railroad by the Government for purposes other than postal, will you state what is the method adopted by the Government in calling upon the road to furnish at all times the necessary means of transportation for these purposes. How is the object accomplished by the Government?

(Same objection.)

A. In the event that the Government has any freight, munitions of war, or anything of that kind that it wishes to ship, it sends its freight to the railroad company's depot and delivers it to the railroad company with a prepared bill of lading which is made on a form prescribed by the war department of the Government; this bill of lading is accepted by the railroad company and used in a settlement of its account with the Government subsequently for the services and transportation performed.

Q. Do you know, as a fact, whether or not the Southern Pacific Railroad Company between the points named, and the line thereof, and the rolling stock thereof, have been used by the Government of the United States from the date of its construction down to the present time for the purpose of transporting its munitions of war, troops, and governmental effects?

(Same objection.)

A. Yes, sir; I know that it has been so used continuously.

Q. Is it being used at the present time for these purposes?

(Same objection.)

A. Yes, sir.

Q. Has it been ever since 1878?

(Same objection.)

A. Yes, sir.

Q. You have stated that the pay given to the Southern Pacific Railroad Company by the Government for the transportation of the Government mail, and for the general system of postal service rendered to the Government by the Southern Pacific Railroad Company, between the points named, is less by twenty per cent, or some per cent named, than that allowed other kinds of railroads; what do you mean by that? Will you state why a less percentage is allowed this company than other companies?

(Same objection.)

A. The postal laws fix the compensation for the transportation of mails based upon the service performed, and applying that principle they fixed the rates allowed for

all the railroads of the United States; a road receiving pay in proportion to the service performed, and two roads performing the same service receiving equal pay, but with the roads which received the aid of a grant of land from the Government, subject to a certain condition regarding transportation, Congress passed a law allowing these lines but eighty per cent of the amount allowed other roads for similar services.

Mr. CALL.—Q. Was not that regulation made by the secretary of the interior?

A. No; by an act of Congress; this is the act of Congress approved July 12th, 1876, Volume 19, United States Statutes, page 82.

Mr. REDDING.—Q. Has the Southern Pacific Railroad Company, one of the defendants in this case, been subjected to this deduction by the Government in its pay for transportation of mail and postal service?

(Same objection.)

A. Yes, sir; and it was considered, and has been interpreted by the Government to be in conformity with one of the obligations of the contract existing between the railroad company and the Government as stated in the granting act, and part of the consideration for the grant of lands.

Q. Has this deduction continued through all these years that you have testified?

(Same objection.)

A. Yes, sir.

Q. What was the last adjustment of rate given to the Southern Pacific Railroad Company as a land grant road

under the instructions of the interior department by acts of Congress?

(Same objection.)

A. The Southern Pacific Railroad, under an act of Congress making appropriations for the transportation of the army for the present fiscal year ending June 30th, 1893, was allowed but fifty per cent of the regular rates of transportation for freight and troops.

Q. Was this act of Congress designed to refer to land grant railroads?

(Same objection.)

A. Yes, sir.

Q. Has the interpretation of this act been applied to the Southern Pacific Railroad Company, one of the defendants herein?

(Same objection.)

A. It has.

Q. Do you know whether or not the Southern Pacific Railroad Company, one of the defendants herein, holds itself in position and readiness at all times and under all circumstances and conditions to supply the Government of the United States with transportation over its lines of road, and between the points named herein as aforesaid, for all kinds of governmental effects, including postal service, munitions of war, etc.?

(Same objection.)

A. Yes, sir; it is a fact, the Southern Pacific Railroad Company has always recognized its obligation under the granting act to perform all service required by the Government at all times.

Q. Has that been a continuous existence of things since the construction of the road down to and including the present time?

(Same objection.)

A. Yes, sir.

Q. How long have you been in the employ of the Southern Pacific Company?

(Same objection.)

A. Since March 1st, 1885.

Q. Prior to that time in the employ of what corporations were you?

(Same objection.)

A. I was employed by the Central Pacific Railroad Company prior to that time.

Q. In what capacity?

(Same objection.)

A. As assistant secretary.

Q. Did you in that capacity have charge of the accounts between the Southern Pacific Railroad Company and the Central Pacific Railroad Company as lessee of the Southern Pacific Railroad?

(Same objection.)

A. Yes, sir.

Q. Then your testimony with reference to the relations of the Southern Pacific Railroad Company through its lessee, the Central Pacific Railroad Company, with the Government of the United States, is based on an intimate knowledge of the occurrences happening in the years named?

(Same objection.)

A. Yes, sir; my experience in connection with the subject extends to the time of the commencement of the construction of the Southern Pacific Railroad from Goshen towards Yuma.

Q. And down to and including the present time?

(Same objection.)

A. Yes, sir.

(The witness was temporarily withdrawn in order to take the testimony of James B. Randol and D. G. Scofield, whose testimony appears in this record next following the testimony of this witness, being so placed for convenience in signing.)

An adjournment was then taken by consent of counsel until Wednesday, October 4th, 1893, at 10:30 A. M.)

San Francisco, October 4th, 1893.

Cross-Examination of G. L. LANSING.

Mr. CALL.—Q. Referring to your testimony on direct examination to the effect that the Southern Pacific Company was a lessee of the Southern Pacific Railroad Company of the line from Goshen by way of Los Angeles to the Colorado river—state when that line was leased to the Southern Pacific Company by the Southern Pacific Railroad Company.

A. The lease took effect March 1, 1885; it was dated in February, 1885, the exact date I do not recollect.

Q. Can you produce before the special examiner a copy of the lease? A. Yes, sir.

Mr. CALL.—I ask you to do so.

The WITNESS.—This is the original (producing).

Q. Have you produced before the special examiner the lease referred to? A. Yes, sir.

Q. This is the original lease? A. Yes, sir.

Mr. CALL.—I offer the lease in evidence and ask that the same be marked "Exhibit before the Special Examiner 'M.'" Have you any objections, Mr. Redding, to the special examiner making a copy of it and certifying to it as a copy?

Mr. REDDING.—Not provided it is made here in the building.

(The lease produced by witness and offered in evidence by Mr. Call is marked by the special examiner, "Exhibit before the Special Examiner 'M,' Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. CALL.—I understood you to say that in reference to the payment by the Government for transporting mails over lines of railroad in which the construction was aided by land grants, that the Government paid 80 per cent of what was paid on other lines—is that correct?

A. Yes, sir; 80 per cent of what is paid to other roads for similar service.

Q. Does the same rule prevail with reference to the transportation of troops, and munitions of war and public stores?

A. No, sir; they are paid 50 per cent of what is charged private parties for similar service under the present appropriation acts.

Q. What is the remedy of an aided railroad if the com-

pensation fixed is not satisfactory or is not deemed sufficient by the company?

A. I understand that there is no remedy; that the rate is fixed by the Government at its own will in consideration of the stipulations of the contract which are embodied in the granting act, that the Government can fix a rate of 80 per cent or of 2 per cent or of one per cent if it chooses to do so.

Q. Has the Southern Pacific Company of Kentucky recovered any moneys from the Government in the court of claims outside of those allowed by the department for transporting of mails or other Government property?

Mr. REDDING.—We will object to the question as being misleading; and request the counsel to specify what he means in reference to the recovery of moneys.

Mr. CALL.—I wish the witness to explain that.

Mr. REDDING.—I object to the question as misleading. The question does not state that it refers to transactions between the Southern Pacific Railroad Company and the Government in particular. The Southern Pacific Company is dealing with a half a dozen or more companies, and I ask that the counsel for the Government, in order not to mislead the witness, specify what particular moneys or suits or claims he refers to and between the Government on the one side and the Southern Pacific Railroad Company or the Southern Pacific Company in its dealings with the Southern Pacific Railroad Company on the other.

A. The Southern Pacific Company has received a judgment in the court of claims which has been affirmed by the Supreme Court of the United States for an amount to ex-

ceed $1,800,000 for transportation services due it in cash; Congress has never made any appropriation for the payment of this claim; I am not advised whether any portion of the amount is for transportation over the line between Goshen and Yuma or any portion of the Southern Pacific Railroad.

Q. Referring to those lines which are not aided by the Government, is the mode for payment by the Government the same as over aided lines—that is, is it done as you were stating by means of transportation requests?

A. Yes, sir; the method of accounting and payment between the Government and the railroad companies is conducted in the same way between aided lines and non-aided lines; by aided lines, I mean lines aided, like the Southern Pacific by grant of lands and not of subsidy bonds; for lines subsidized by bonds a different method is adopted.

Q. When was that judgment rendered in the court of claims for a million and odd dollars.

A. It was affirmed by the Supreme Court within a year, but I cannot give the date from recollection.

Q. Was it not affirmed by the Supreme Court of the District of Columbia?

A. Oh, I am mistaken about that; it was not appealed on the part of the Government from the court of claims.

Mr. REDDING.—Judgment was rendered last January, I believe.

The WITNESS.—I can give you the reference.

Mr. CALL.—Oh, it is not important.

Q. Under what provision of law was that suit brought?

A. I understand under the same provisions of law that any common carrier would bring a suit for transportation services to the Government, simply that the services had been performed and the compensation was due.

Q. I thought you said that when the rates were fixed by the contract that there was no remedy for the railroad company if it disputed the adequacy of the amount; please explain how that is.

A. I have stated that I did not know that any portion of this judgment, of the amount involved in the suit, had reference to transportation over the lines of the Southern Pacific Railroad, and that upon those lines the 80 per cent was allowed for transportation of the mails under the act of Congress, the granting act; that in the suit, and the amount involved in the suit in question, there were, as I understand it, no claims for transportation on that line; I am very sure there was no claim for transportation for disputed amounts of any kind.

Q. How does the amount allowed to the Southern Pacific Railroad under contract compare with the amounts allowed in eastern States?

A. For the portion of the line which has received a grant of lands the Government paid 80 per cent for the transportation of mails of the rates allowed for similar service performed by roads in the eastern States.

Q. Is the rate from Chicago to Mississippi Valley States 20 per cent added to what is paid the Southern Pacific, or is it less than that?

A. I will explain my statement a little more clearly by saying that in the transportation of the mails for the

United States, compensation is fixed by law and is determined upon the weights of mails carried; the law applies to all railroads in the United States; a special act applying to the land grant line of the Southern Pacific Railroad provides that the Government may fix the rates for the transportation of mails of the Southern Pacific road——

Mr. CALL.—(Interrupting.) The postmaster general?

The WITNESS. The Government.

A. (Continuing.) And the Government subsequently, by an act of Congress, did fix the rates at 80 per cent for the transportation of mails of those which are provided by the general law prescribing the rates which shall apply to all railroads in the United States, so that the Southern Pacific Railroad receives but 80 per cent of the amount which roads in the eastern States receive for the transportation of mails where they perform a similar amount of service.

G. L. LANSING.

Exhibit Before the Special Examiner "M."

This agreement, made this 10th day of February, 1885, between the Southern Pacific Company, a corporation duly organized and existing under the laws of the State of Kentucky, and the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the United States and the State of California, the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the territory of Arizona, the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of

the territory of New Mexico, the Galveston, Harrisburg and San Antonio Railway Company, a corporation duly organized and existing under the laws of the State of Texas, the Texas and New Orleans Railroad Company, of 1874, a corporation duly organized and existing under the laws of the State of Texas, the Louisiana Western Railroad Company, a corporation duly organized and existing under the laws of the State of Louisiana, Morgan's Louisiana and Texas Railroad and Steamship Company, a corporation duly organized and existing under the laws of the State of Louisiana, and the Mexican International Railroad Company, a corporation duly organized and existing under the laws of the State of Connecticut, witnesseth:

I.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the United States and the State of California, hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of California, known and designated as the Southern Pacific Railroad of California, with all its branches and all railroads now leased by it, together with the rolling-stock, telegraph lines, tools and property of every kind and nature whatsoever, now in use upon or in connection with said railroads, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

II.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the territory of Arizona, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroads situated in the territory of Arizona, and known and designated as the Southern Pacific Railroad of Arizona, together with all its branches and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroads or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

III.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the territory of New Mexico, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the territory of New Mexico, and known and designated as the Southern Pacific Railroad of New Mexico, together with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad or its branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use

and operate the said property, and to receive the rents, issues and profits thereof.

IV.

That the said Galveston, Harrisburg and San Antonio Railway Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of Texas and known and designated as the Galveston, Harrisburg and San Antonio Railway, with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad or its branches, and together with all the appurtenances thereunto belonging, and all other property now owned, held and possessed by it, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

V.

That the said Texas and New Orleans Railroad Company, of 1874, hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of Texas, and known and designated as the Texas and New Orleans Railroad, of 1874, together with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever, now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

VI.

That the said Louisiana Western Railroad Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the States of Texas and Louisiana, and known and designated as the Louisiana Western Railroad, together with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

VII.

That the said Morgan's Louisiana and Texas Railroad and Steamship Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, its railroad situated in the State of Louisiana, and known and designated as the Morgan's Louisiana and Texas Railroad, all the branches thereof, and the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad and branches, and together with all the appurtenances thereunto belonging; also all the steamships, steamboats, tugs, wharves, piers, landings, depots, buildings and all other property, real and personal, now owned, held or possessed by the said Morgan's Louisiana and Texas Railroad and Steamship Company; with the right to possess, maintain, use and

operate the said property, and to receive the rents, issues and profits thereof.

VIII.

That the said Mexican International Railroad Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad and the branches thereof situated in the Republic of Mexico, known and designated as the Mexican International Railroad, together with all its branches and the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

In consideration of the leases aforesaid, the said Southern Pacific Company agrees to and with the other corporations, parties hereto, that it will keep the said leased property in good order, condition and repair; operate, maintain, add to and better the same at its own expense; pay all taxes legally assessed against or levied thereon; and will, upon the termination of this lease, return the same to the respective parties from which it was leased, or to their successors, with additions and betterments, in as good condition and repair as the same was at the date hereof.

That it hereby assumes and will discharge all the liabilities and obligations of every kind of the said railroad companies, and each of them, except the obligations to pay the principal of their indebtedness, known as the

bonded indebtedness, now outstanding and secured by mortgage or deed of trust, or which may hereafter be incurred by either of said companies under the provisions of any existing mortgage or deed of trust, or any mortgage or deed of trust hereafter, with the consent of this company made. That as to such bonded indebtedness, it will pay off and discharge at maturity the interest upon the same, and will upon demand of either of said railroad companies guarantee in such form as said company may require, the payment of the principal and interest thereof.

That said Southern Pacific Company will annually, on the first day of May, pay the following named railroad companies as rental, a sum equal to ninety-three and one-twelfth (93 1-12) per cent of its net profits—if any net profits there be—for the year ending on the thirty-first day of December next preceding that date, as follows:

To the said Southern Pacific Railroad Company, existing under the laws of the United States and of the State of California, twenty-six and one-half (26½) per cent of said net profits.

To the said Southern Pacific Railroad Company, existing under the laws of the territory of Arizona, twelve (12) per cent of said net profits.

To the said Southern Pacific Railroad Company, existing under the laws of the territory of New Mexico, four (4) per cent of said net profits.

To the said Galveston, Harrisburg and San Antonio Railway Company, sixteen and one-quarter (16¼) per cent of said net profits.

To the said Texas and New Orleans Railroad Company,

of 1874, seven and one-half (7½) per cent of said net profits.

To the said Louisiana Western Railroad Company, three and one-third (3 1-3) per cent of said net profits.

To the said Morgan's Louisiana and Texas Railroad and Steamship Company, twenty-two and one-half (22½) per cent of said net profits.

To the said Mexican International Railroad Company, one (1) per cent of said net profits.

The term net profits as used herein shall be construed to mean the moneys on hand available for dividends after all expenses, payments and disbursements of every nature and kind of the said Southern Pacific Company—except for the rental of railroads now or hereafter leased by said company—have been deducted.

In testimony whereof, the parties hereto have caused these presents to be signed by their respective presidents and countersigned by their secretaries, and their corporate seals to be hereunto affixed, pursuant to orders of their respective boards of directors, on the day and year herein written. In octuple.

[Seal] W. E. BROWN,
President Southern Pacific Company.

H. C. NASH,
Secretary Southern Pacific Company.

[Seal] CHAS. CROCKER,
President Southern Pacific Railroad Company.

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

[Seal] CHAS. F. CROCKER,
President Southern Pacific Railroad Company.

F. S. DOUTY,

Secretary Southern Pacific Railroad Company.

[Seal] CHAS. F. CROCKER,

President Southern Pacific Railroad Company.

GEO. E. GRAY,

Secretary Southern Pacific Railroad Company.

[Seal] T. W. PIERCE,

President Galveston, Harrisburg and San Antonio Railway Company.

CHAS. BABBIDGE,

Asst. Secretary Galveston, Harrisburg and San Antonio Railway Company.

[Seal] C. P. HUNTINGTON,

President Texas and New Orleans Railroad Company, of 1874.

I. E. GATES,

Secretary Texas and New Orleans Railroad Company, of 1874.

[Seal] C. P. HUNTINGTON,

President Louisiana Western Railroad Company.

I. E. GATES,

Secretary Louisiana Western Railroad Company.

[Seal] A. C. HUTCHINSON,

President Morgan's Louisiana and Texas Railroad and Steamship Company.

J. B. RICHARDSON,

Secretary Morgan's Louisiana and Texas Railroad and Steamship Company.

[Seal] C. P. HUNTINGTON,

President Mexican International Railroad Company.

F. H. DAVIS,

Secretary Mexican International Railroad Company.

[Endorsed]: Agreement Sou. Pac. Company and S. P. R. R. of California, S. P. R. R. of Arizona S. P. R. R. of N. Mexico, G. Harris. & S. Anto. Ry., Texas & N. Orleans R. R., Louisiana Westn. R. R., Morgan's L. & T. R. R. & S. S. Co., Mexican International R. R. Dated February 10, 1885. (Sou. Pac. Compy. No. 3 Documents.)

(Marked "Exhibit before the Special Examiner 'M.' Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Testimony of CHARLES F. CROCKER.

CHARLES F. CROCKER, called as a witness on behalf of the defendants, being duly sworn, testified as follows, said testimony being taken on September 14th, 1893, and inserted at this point in the record for convenience in signing.

Direct Examination.

Mr. REDDING.—Q. Are you an officer of the Southern Pacific Railroad Company? A. I am.

Q. What office do you hold in that company?

A. President.

Q. How long have you been president of the company?

A. At least five years.

Q. Were you an officer of the company other than president prior to that time?

A. I was one of the vice-presidents.

Q. How long have you been an officer of the company and connected with it, covering what period of years?

A. A director or executive officer for from ten to twelve years.

Q. The title to this suit is the United States of America against the Southern Pacific Railroad Company and others, and the suit involves a land grant made by Congress to the Southern Pacific Railroad Company, dated March 3d, 1871, extending from Tehachapi, by way of Los Angeles, to Fort Yuma; is that the company of which you are president of which you are speaking?

A. It is.

Q. Do you know whether or not the identity of the Southern Pacific Railroad Company has been changed, or whether the company itself has been changed by any of its articles of amalgamation and consolidation which it has filed during the last twenty years, or whether it has been the intention of the officers of the company to maintain the same corporation and the same identity?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant, and not the best evidence, and as involving a conclusion of law.)

A. The identity and character of the Southern Pacific Railroad Company of California was preserved in the

amalgamation and proceedings which have been held during my term of office as a director and executive officer in that company; I personally instructed the officers of the law department who prepared the papers in the proceeding which were had in 1888, at the time various corporations were amalgamated into the Southern Pacific Railroad of California—

Mr. REDDING.—(Interrupting.) That is the defendant in this action, the Southern Pacific Railroad Company?

The WITNESS.—Yes, sir; the company to which the United States Government granted certain sections of land.

A. (Continuing.) To preserve the character and identity of that corporation; it was reported to me that the law permitted that to be done, and they were instructed to proceed upon that line.

Q. Do you know as a fact whether or not there was an intention on the part of the directors of the Southern Pacific Railroad Company, and the executive officers, and those in authority, to preserve the identity and same character of the Southern Pacific Railroad Company to which Congress made this land grant, or otherwise?

(Question objected to by Mr. Call, as incompetent, immaterial, and irrelevant, and not the best evidence, and as calling for a conclusion of law, and upon the further ground that the intentions of the several companies amalgamating can be gathered and shown only by the proceedings had upon consolidation and by the written evidence of the amalgamation of the roads.)

A. It was intended to preserve the identity and character of the Southern Pacific Railroad Company of California as it existed previous to that amalgamation, and the legal officers of the company were instructed to prepare the papers accordingly.

Q. Were you present at the conferences of the directors of the company anterior to taking in these other corporations.

(Same objection.)

A. I was present.

Q. Did you take part in the proceedings?

(Same objection.)

A. I did.

Q. Will you state whether or not you gave your own views at those meetings as to what you wanted done as an officer and a director of the company?

(Same objection.)

A. I did, according to my answers already given to these questions.

Q. Do you know whether or not the land department of the Southern Pacific Railroad Company has remained the same ever since its inception, so far as referring to one land grant and one corporation, or whether it has been changed?

(Same objection.)

A. It has remained the same.

Q. Were you an officer of the company, or in anywise connected with it during the period when prior amalgamations were made, for instance the one of 1873?

(Same objection.)

A. I was not.

Cross-Examination.

Mr. CALL.—Q. Were you an officer of the company, that is, a general officer, at the time of the amalgamation of 1874? A. No, sir; I was not.

CHAS. F. CROCKER.

Plaintiffs' Exhibit No. 40.

M. N. (4-207a.) W. J. M.

F.

Department of the Interior,

General Land Office,

Washington, D. C., October 7th, 1893.

I, S. W. Lamoreux, commissioner of the general land office, do hereby certify that the annexed map is a true and literal exemplification of the one filed in this department by the president of the Southern Pacific Railroad Company, and transmitted to this office with departmental letter dated April 3, 1871, a true copy of which is attached hereto, and that both of said copies are now on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of General Landoffice.

Jno. B. B.

Department of the Interior,

Washington, D. C., April 3d, 1871.

Sir: The 23d section of the act to incorporate the Texas Pacific Railroad and for other purposes, affirmed March 3d, 1871, authorizes "the Southern Pacific Railroad Company to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river," with the same rights and privileges, and subject to the same limitations and restrictions, as were granted to said Southern Pacific Railroad Company of California, by the act of July 27, 1866.

The accompanying map designating the route of said soad from Tehachapi Pass, by way of Los Angeles, to the Colorado river, has been filed by Charles Crocker, Esq., president of the company, with a request that the lands may be withdrawn, as provided in the 12th section of said act, "from pre-emption, private entry and sale."

You will issue the necessary order for a withdrawal of the lands, within twenty miles, and along the route designated on said map.

Very respectfully,

Your obt. servant,

WALTER H. SMITH,

Acting Secretary.

Hon. Willis Drummond, Commissioner of the General Landoffice.

[Endorsed]: U. S. Cir. Court, Southern District California. United States vs. S. P. R. R. Co. 184. Master's and Examiner's Exhibit No. 45. E. H. Lamme, Master and Examiner in Chancery. For Complainant. Filed Feb. 23, 1894. Wm. M. Van Dyke, Clerk. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Plaintiffs' Exhibit No. 40. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

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Exhibit "R."

(Referred to in the Answer of the Southern Pacific Railroad Company.)

F. (4—207a.) M. J. D.
W. C. E.

(Case 68. Before the Master in Chancery. Stipulated Exhibit "C." J. H. C. J. D. R.)

Department of the Interior,

General Land Office,

Washington, October 25, 1889.

I, Lewis A. Groff, commissioner of the general land-office, do hereby certify that the annexed copy of a letter dated April 21, 1871, and addressed to the register and receiver, Los Angeles, California, is a true and literal exemplification of the original letter of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] LEWIS A. GROFF,
Commissioner of General Landoffice.

Department of the Interior,

General Landoffice,

April 21st, 1871.

Register and Receiver, Los Angeles, California.

Gentlemen: By act of March 3d, 1871, sec. 23, the Southern Pacific Railroad Co. is authorized to construct

a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river with the same grant of lands, etc., as were granted to said company by act of July 27, 1866.

The company having filed a diagram designating the general route of said road, I herewith transmit a map showing thereon the line of route, as also the 20 and 30 mile limits of the grant to the line of withdrawal for the Southern Pacific Railroad under the act of 1866, and you are hereby directed to withhold from sale or location, pre-emption or homestead entry all the odd-numbered sections falling within those limits.

The even-numbered sections within the limit of 20 miles you will increase in price to $2.50 per acre, and will dispose of them at that price, but only under the pre-emption and homestead laws.

When pre-emption or homestead entries may have had legal inception prior to the receipt of this order, the settlers may of course prove their claims either upon odd or even numbered sections at the rate of $1.25 per acre.

This order will take effect from the date of its receipt by you, and you will please acknowledge receipt by date.

The even-numbered sections between the 20 and 30 mile or indemnity limits are not affected by this order.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

[Endorsed]: U. S. Circuit Court, Southern Dist. of Cal. United States vs. S. P. R. R. Co. No. 68. Master's Exhibit 132. Filed March 20. Chas. L. Batcheller, Master

and Examiner in Chancery. 23, E. H. L. Plaintiffs' Exhibit No. 24. E. H. Lamme, Examiner. U. S. Cir. Court, Southern District California. S. P. R. R. Co. vs. Hutton, et al., 305. Examiner's Exhibit No. 23. E. H. Lamme, Master and Examiner in Chancery. Filed Dec. 30th, 1889. Wm. M. Van Dyke, Clerk. By E. H. Owen, Deputy. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al., No. 600. Plaintiffs' Exhibit No. 27. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 65.

Department of the Interior,

Washington, D. C., April 3d, 1871.

Sir: The map received with your letter of the 22nd ultimo, showing the route of the Southern Pacific Railroad "from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river," has been sent to the commissioner of the general landoffice, with directions to withdraw the lands as provided in the 12th section of the act to incorporate said Texas Pacific Railroad, approved March 3d, 1871.

Very respectfully,

Your obt. servant,

WALTER H. SMITH,

Acting Secretary.

Charles Crocker, Esq., Pres. Southern Pac. R. R. Co., 54 William St., N. Y.

[Endorsed]: Walter H. Smith, acting secretary, Washington, April 3, 1871. Map sent to commissioner with direction to withdraw certain lands.

(Marked "Defendants' Exhibit before the Special Examiner No. 65, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

STEPHEN POTTER,
Special Examiner.

San Francisco, Sept. 30th, 1893.

[Endorsed]: Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 12.

Copy of Resolution of the Board of Directors of the Southern Pacific Railroad Company.

Resolved, that this company will and does hereby accept the terms, conditions, and impositions of the act of Congress of the United States, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road and for other purposes," approved March 3d, 1871, and that a copy of this resolution of acceptance, certified under the seal of this company be forwarded to and filed with the secretary of the interior.

I, J. L. Willcutt, secretary of the Southern Pacific Railroad Company, hereby certify that the foregoing is a true and correct copy of a resolution adopted at a meeting of the board of directors of the Southern Pacific Railroad Company held at the office of the company in the city and

county of San Francisco, State of California, on the 16th day of May, 1871, as the same appears on the records of said company.

Witness my hand and the corporate seal of said company the 6th day of July, 1895.

[Seal] J. L. WILLCUTT,
Secretary Southern Pacific Company.

I certify that I have compared the foregoing copy of a resolution of the board of directors of the Southern Pacific Railroad Company, marked by me "Defendants' Exhibit No. 12," in the case of the United States of America, Complainant, vs. Southern Pacific R. R. Co. et al., Defendants, No. 587, with the original thereof in the possession of the Southern Pacific R. R. Co., and find it to be a full, true and correct copy of same.

San Francisco, July 16th, 1895.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit No. 12. Stephen Potter, Special Examiner. Filed Feb. 10, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 29.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept 30, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Los Angeles, California, April, 15, 1874.

To Hon. C. Delano, Secretary of the Interior of the United States of America:

Sir: We the undersigned commissioners of the United States, appointed to examine the first (1st) section of fifty (50) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3d, 1871, commencing at a point in the northwest quarter (N. W. ¼) of section three (3), township two (2) north, range fifteen (15) west, San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, and ending at the termination of the fiftieth (50) mile therefrom, at a point in the northeast quarter (N. E. ¼) of section twenty-seven (27), township one (1) south, range nine (9) west, San Bernardino base and meridian:

(Note.—The affidavit, Feby. 16th, 1874, of C. P. Huntington, president of the Southern Pacific R. R. Co., of the completion of this section of 50 miles of railroad, contains a clerical error, in that it describes incorrectly the

exact quarter section of public land in which the points of commencement and termination are situated. The particular sections of land in which these points exist are given herein correctly. The difference in the description was caused by a difficulty in connecting the line of the road with the U. S. surveys.)

Certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance, fifty (50) miles, there are:

20,141	feet of level line.
8,500	feet of grades, 0 to 5 feet per mile.
20,500	feet of grades, 5 to 10 feet per mile.
17,103	feet of grades, 10 to 15 feet per mile.
18,900	feet of grades, 15 to 20 feet per mile.
11,700	feet of grades, 20 to 25 feet per mile.
18,690	feet of grades, 25 to 30 feet per mile.
22,300	feet of grades, 30 to 35 feet per mile.
13,944.6-10	feet of grades, 35 to 40 feet per mile.
15,800	feet of grades, 40 to 45 feet per mile.
26,100	feet of grades, 45 to 50 feet per mile.
26.721.4.10	feet of grades, 50 to 55 feet per mile.
20,000	feet of grades, 55 to 60 feet per mile.
4,400	feet of grades, 60 to 65 feet per mile.
13,800	feet of grades, 65 to 70 feet per mile.
5,400	feet of grades, 72 23-100 feet per mile.

Total, 264,000 feet, or fifty (50) miles.

Maximum grade, 72.23 feet per mile.

That also in this distance of fifty (50) miles there are:

197,470.5-10 feet of straight line.
361.4-10 feet of curve of 18′.
17,215 feet of curve of 20′.
8,720 feet of curve of 30′.
9,680 feet of curve of 40′.
5,220 feet of curve of 50′.
10,102 feet of curve of 1°.
1,575 feet of curve of 1° 20′.
1,744.6-10 feet of curve of 1° 30′.
3,872.4-10 feet of curve of 2° 00′.
200 feet of curve of 3° 00′.
3,972.5-10 feet of curve of 4° 00′.
400 feet of curve of 4° 30′.
1,331.6-10 feet of curve of 5° 00′.
2,131 feet of curve of 6° 00′.

264,000 feet or over fifty (50) miles.
Radius, 955.4-10 feet.

That all the iron is of American manufacture and of the best quality, and that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than fifty-six (56) pounds per lineal yard, and the joints are made with fish plates, and that all the rails are fastened with four spikes to each tie; that there are seven (7) sidings having an aggregate length of 12,642 feet, connected with the main track at each end with good switches; that there are two turntable tracks having an aggregate length of 546 feet, connected with the main

track with good switches; that there are 2,450 ties per mile, of redwood or red cedar timber, in all cases at least 6 x 8 inches by 8 feet long. (The crossties are in the aggregate over eight inches wide and make a bearing surface equal to at least 2,640 ties per mile); that the said section is ballasted with sand, gravel, and loam, of which the roadbed is composed, no other materials being found within many miles of the line of the railroad. When more suitable material shall be found within a reasonable distance, we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are seventeen (17) bridges all built on pile foundations, as follows:

1 bridge	1,001.7-10	feet long,	63 spans,	15.9-10	each.
1 bridge	795	feet long,	50 spans,	15.9-10	each.
1 bridge	556.5-10	feet long,	35 spans,	15.9-10	each.
1 bridge	331.8-10	feet long,	21 spans,	15.8-10	each.
2 bridges	190.8-10	feet long,	12 spans,	15.9-10	each.
2 bridges	95.4-10	feet long,	6 spans,	15.9-10	each.
5 bridges	48	feet long,	3 spans,	16	each.
3 bridges	32	feet long,	2 spans,	16	each.
1 bridge	16	feet long,	1 span,	16	each.

Total, 17 bridges.

That there are one hundred and sixteen (116) culverts as follows:

43 culverts,	1 x 1	feet, box.
5 culverts,	1 x 1½	feet, open.
1 culvert,	1 x 1½	feet, box.
2 culverts,	1 x 2	feet, open.
1 culvert,	1 x 2	feet, box.
1 culvert,	1 x 2½	feet, box.
27 culverts,	2 x 2	feet, box.
16 culverts,	2 x 3	feet, box.
4 culverts,	3 x 3	feet, box.
5 culverts,	3 x 4	feet, box.
3 culverts,,	4 x 4	feet, box.
1 culvert,	4 x 6	feet, box.
5 culverts,	6 x 6	feet, box.
1 culvert,	6	feet, open.
1 culvert,	10	feet, open.
Total,	116 culverts.	

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the trestle bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific coast and universally sought after on account of its great durability and resistance to decay.

We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be

rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of road.

No wood or coal houses have been built and they do not seem to be necessary. A permanent arrangement has, notwithstanding, been made by the Southern Pacific Railroad Company with the Los Angeles and San Pedro Railroad Company for the full use of the fuel houses at Los Angeles owned by the latter company. They are large enough for all the fuel required at present by both roads. The dryness of the atmosphere, there being but a very light rainfall in winter with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, other fuel houses shall be hereafter found requisite, the officers promise that they shall be built immediately.

That at San Fernando there is one passenger and freight-house combined, 78 x 20 feet, sided with planed lumber and covered with shingles. On each side of the building there are platforms 8 feet wide.

That there is one turntable at San Fernando with 273 feet of track, connected at one end by switch with the main track.

That there is at San Fernando one water-tank of 18,000 gallons capacity, supplied from a well by a Hooker pump.

That there is at San Fernando 1,046 feet of side track, connected at both ends with good switches to the main track.

That there are at Sepulveda, 13 miles from San Fernando, 10 acres of land for depot purposes. The officers

of the road say that whenever business shall require side tracks or buildings they will be constructed.

That there are at Los Angeles 1,125 feet of side track, connected at both ends by good switches with the main track. Also, 7,550.4-10 feet of side track, connecting by good switches the main line with the passenger and freight depots of the San Pedro and Los Angeles Railroad. Also, 220.6-10 feet of side track, connecting by good switches the main line with an engine-house which the Southern Pacific Railroad Company has constructed on a 50-acre tract provided for large engine and repair shops when they shall become necessary.

That there are 65 acres of land for depots and machine shops. A permanent arrangement has been made and perfected whereby the Southern Pacific Railroad Company has the full use of the passenger and freight depots of the San Pedro and Los Angeles Railroad Company. The road owned by this company consists of a main line of 20 miles from Los Angeles to Wilmington, on the Pacific Ocean, and a branch line to Anaheim, 7 miles of which is constructed. It is run in connection with the section of 50 miles of railroad under examination. These passenger and freight depots are large, well built, and commodious buildings, and are much more than sufficient to give the fullest accommodations for all the travel and commerce of both roads for many years. The officers promise that if business should increase to such an extent as to require more ample accommodations other buildings will, when needed, be immediately erected on the 65 acres before mentioned.

That at San Gabriel there is one passenger and freight house combined; 40 x 20 feet, sided with planed lumber and covered with shingles. On each side of the buildings there are platforms 8 feet wide.

That at San Gabriel there is a side track 827 feet long, connected at both ends with good switches to the main track.

That there is at Lexington one passenger and freight house combined, 24 x 16 feet, sided with planed lumber and covered with shingles. On each side of the building there are platforms 8 feet wide.

That at Lexington there is a side track 827 feet long, connected at both ends with good switches to the main track.

That at Spadra there is one passenger and freight house combined, 78 x 20 feet, sided with planed lumber and covered with shingles. On each side of the building there are platforms 8 feet wide.

That at Spadra there is one turntable with 273 feet of side track.

That at Spadra there are 1,046 feet of side track, connected at both ends with good switches with main track.

That at Spadra there is a water-tank of 18,000 gallons capacity, supplied from a well by a Hooker pump.

That there are no section-houses erected, the hotel and farm-houses which are found along the line of the road affording ample accommodation for all the workmen employed.

That no locomotive stall, machine, or repair shops have been built, permanent arrangements have been made

with the Los Angeles and San Pedro Railroad Company for the use of its machine and repair shops, etc. These we deem sufficient for the work of both roads at present. We are informed by the officers of the company that it is the intention, as soon as enough of the railroad shall be built from which to form a division of any considerable length, to construct permanent machine and repair shops in the most substantial and durable manner, and if, in the meanwhile, additional facilities should be required for repairs or otherwise they shall be supplied promptly.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are now used on this portion of its line:

Locomotives.

No.	Diam. of Wheels.		Size of cylinder	Name of Makers.
	ft.	in.		
1	4	8	17 in.	Central Pacific R. R. Co., Sacramento, Cal.
2	5	2	14 "	McQueen, Schenectady, New York.
3	5	2	12 "	" " "
4	5	2	12 "	" " "
5	5	2	9 "	Vulcan Iron Works, San Francisco.

Cars.

2 passenger cars.
2 passenger and caboose cars.
13 platform cars.
2 dump cars.
1 smoking car.
1 baggage and express car.
7 box freight cars.
12 section cars.

Total, 70 cars.

The above locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come.

The road traverses a section thinly settled by a population that has hardly any commerce, and in consequence business must necessarily be, for a time, very limited and unprofitable. As the road advances it is hoped that immigration will be attracted and the resources and commerce of the country will be developed to such an extent that when, eventually, connection shall be made with the main line from the eastern States there will be enough of freight and travel to establish at least a paying business.

The directors say that when and as the same shall become necessary, an ample supply of first-class rolling stock and other appurtenances will be promptly provided.

That said section of fifty (50) miles of railroad, and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other rail-

road route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That this section of railroad and telegraph line was completed and equipped previous to the 3d day of March, 1874, and both are first-class.

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8 x 8 inches; at top, 4 x 5 inches; length, 24 feet. They are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality and of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the Government of the section of fifty (50) miles of railroad and telegraph line hereinbefore described.

We also report and certify that the deficiencies in the ballasting of the Southern Pacific Railroad which existed at the time of the several examinations of said roads by the United States railroad commission have been supplied, and that the entire line throughout is now ballasted in a first-class manner and the roadway is in an excellent condition and repair.

Respectfully submitted,

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California,
County of Los Angeles. } ss.

Lewis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally each for himself, says that he is the United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Ygnacio Sepulvedo, a Judge of the District Court of the 17th Judicial District of the State of California, in and for the county of Los Angeles, this 15 day of April, A D. 1874, said court being a court of record.

YGNACIO SEPULVEDA,
District Judge of the Court aforesaid.

I hereby certify that Ygnacio Sepulveda is the acting Judge of said court; that I am well acquainted with his handwriting and that the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this 15th day of April, A. D. 1874.

[Seal] ANDREW W. POTTS,
County Clerk in and for the said county of Los Angeles and ex officio Clerk of the District Court of the 17th Judicial District, in and for said County of Los Angeles.

Department of the Interior,

Washington, D. C., 8th May, 1874.

Sir: I have the honor to submit herewith for your action the report, dated 15th ultimo, of Messrs. Foulke, Brown & Sullivan, appointed by you to examine and report upon the Southern Pacific Railroad and Telegraph line. They have examined the 50 miles of road, etc., commencing at a point in the N. W. ¼, section 3, township 2 N., range 15 west, San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, ending at the termination of the 50th mile therefrom, at a point in the N. E. ¼, section 27, township 1 S., range 9 W., same base and meridian.

The commissioners in their report represent (with exception of a few defects which the company promise to remedy hereafter) that this portion of road is completed and equipped as a first-class railroad; and that the telegraph line is finished for the same distance, and is first class. I therefore respectfully recommend the acceptance of the same, and the issue to said company of patents for lands due on account of the construction thereof, agreeably to the provisions of the "act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved 27 July, 1866, and the acts amendatory thereof, approved 25 July, 1868, and 28th June, 1870.

Very respectfully, your ob't servant,

R. R. COWEN,

Acting Secretary.

To the President.

[Endorsed]: Department of the Interior, 8th May, 1874. R. R. Cowen, acting secretary, submits to the President report of commissioners on 1st section of fifty miles of Southern Pacific R. R. Executive Mansion, May 9th, 1874. The within recommendations are approved.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 29. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 30.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 30, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals, and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,

Acting Secretary of the Interior.

Los Angeles, California, October 21, 1875.

To Hon. Zachariah Chandler, Secretary of the Interior, of the United States of America:

Sir: We, the undersigned commissioners of the United States. appointed to examine the second (2) section of

fifty (50) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3d, 1871, commencing at the termination of section number one (1) of said railroad, at a point in the northeast quarter (N. E. ¼) of section twenty-seven (27), township one (1) south, range nine (9) west, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles, to a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance (50) miles there are:

16,700 feet of level line.
4,900 feet of grades, 0 to 5 feet per mile.
30,900 feet of grades, 5 to 10 feet per mile.
6,600 feet of grades, 10 to 15 feet per mile.
18,500 feet of grades, 15 to 20 feet per mile.
21,400 feet of grades, 20 to 25 feet per mile.
10,400 feet of grades, 25 to 30 feet per mile.
22,100 feet of grades, 30 to 35 feet per mile.
4,000 feet of grades, 35 to 40 feet per mile.
3,500 feet of grades, 40 to 45 feet per mile.
10,400 feet of grades, 45 to 50 feet per mile.

11,700 feet of grades, 50 to 55 feet per mile.
12,600 feet of grades, 55 to 60 feet per mile.
13,200 feet of grades, 60 to 65 feet per mile.
8,000 feet of grades, 65 to 70 feet per mile.
7,900 feet of grades, 70 to 75 feet per mile.
17,000 feet of grades, 75 to 80 feet per mile.
12,800 feet of grades, 80 to 85 feet per mile.
6,200 feet of grades, 85 to 90 feet per mile.
13,800 feet of grades, 90 to 95 feet per mile.
8,500 feet of grades, 95 to 100 feet per mile.
2,900 feet of grades, 100 to 103.78 ft. per mile.

Total, 264,000 feet or fifty (50) miles.
Maximum grade, 103.78 feet per mile.

That also in this distance of fifty (50) miles there are:

208,751.6-10 feet of straight line.
6,000 feet of curve 0° 30′.
12,800 feet of curve 1°.
2,655.4-10 feet of curve 1° 30′.
14,190 feet of curve 2°.
6,090 feet of curve 3°.
740 feet of curve 3° 50′.
8,673 feet of curve 4°.
2,800 feet of curve 5°.
1,300 feet of curve 6°.

Total, 264,000 feet, or fifty (50) miles.
Minimum radius, 955 37-100 feet.

That all the iron is of American manufacture and of the best quality, and that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than 56 pounds per lineal yard, and the joints are made with fish-plates, and that all the rails are fastened with four spikes to each tie; that there are four sidings having an aggregate length of 5,557.05 feet, each of them connected with the main track at both ends with good switches; that there is one (1) turntable track having a length of 331 feet connected with the main track with a good switch; that there are 2,450 ties per mile of redwood or red cedar timber, in all cases at least 6x8 inches by 8 feet long (the cross-ties are, in the aggregate, over 8 inches wide and make a bearing surface equal to at least 2,640 ties per mile); that the said section is ballasted with sand, gravel, and loam, of which the roadbed is composed, no other material being found within many miles of the line of the railroad.

When more suitable material shall be found within a reasonable distance, we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are twenty (20) bridges, all built on pile foundations, as follows:

1 bridge, 2,624 feet long; 164 spans, 16 feet each.
1 bridge, 160 feet long; 10 spans, 16 feet each.
1 bridge, 128 feet long, 8 spans, 16 feet each.
1 bridge, 112 feet long; 7 spans, 16 feet each.
1 bridge, 64 feet long; 4 spans, 16 feet each.
1 bridge, 48 feet long; 3 spans, 16 feet each.
2 bridges, 32 feet long; 2 spans, 16 feet each.
4 bridges, 16 feet long; 1 span. 16 feet each.
5 bridges, 10 feet long; 1 span, 10 feet each.
3 bridges, 8 feet long; 1 span, 8 feet each.

Total, 20 bridges.

That there are 141 culverts, as follows:

Inches

1 culvert, 6x10 open.
2 culverts, 9x12 open.
3 culverts, 10x12 open.
1 culvert, 10x12 open, with penstock.
1 culvert, 10x24 open.

Feet.

10 culverts, 1 x1 open.
32 culverts, 1 x1 box.
4 culverts, 1 x1½ open.
4 culverts, 1 x2 open.
17 culverts, 1 x2 box.
2 culverts, 1½x2 open.
1 culvert, 2 x2 open.
49 culverts, 2 x2 box.
10 culverts, 3 x3 box.
3 culverts, 3 x3 box.
1 culvert, 3 x4 box.

Total, 141 culverts.

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the trestle bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific coast, and universally sought after on account of its great durability and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of the road.

No wood or coal houses have been built and they do not seem to be necessary. The dryness of the atmosphere, there being but a very light rainfall in winter, with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel houses shall hereafter be found requisite the officers promise that they shall be built immediately.

That at Pomona there are 1,020 feet of side track, connected with the main track at both ends with good switches.

That at Cucamonga there is one platform 8 feet by 24 feet.

That there are two section-houses at Cucamonga, one 18x30 feet, with wing 16x12 feet, and the other 12x16 feet, both sided with lumber, painted, and covered with shingles.

That there are 1,130 feet of side track at Cucamonga, connected with the main track at both ends with good switches.

That there is one water tank of 18,000 gallons capacity at Cucamonga, supplied by gravity from Cucamonga creek.

That at Colton there is one passenger and freight house combined, 32x160 feet, sided with planed lumber, painted and covered with shingles. On each side of the building there are platforms ten feet wide, and at each end platforms twelve feet wide.

That there is at Colton one turntable with 331 feet of track, connected at one end by switch with the main track.

That there is at Colton one water tank of 18,000 gallons capacity supplied from a well by a wndmill.

That there are two section-houses at Colton 12x16 feet, each sided with lumber, painted and covered with shingles.

That there is one coal platform at Colton, 20x40 feet, aggregate length of 3,401.5-10 feet, connected with the main track at both ends with good switches.

The officers inform us that it is the intention of the company to build at Mound City (three miles from Colton station), buildings, platforms, etc., as soon as the necessities of business shall require it.

That at Frinks there is one water-tank of 18,000 gallons capacity, supplied from a well by hand power, to be replaced as soon as possible by windmill.

That no locomotive stalls or engine houses, machine or repair shops have been built on this section. Those at Los Angeles, heretofore, on April 15th, 1874, reported upon, being amply sufficient to meet its present requirements. If others should become necessary the officers inform us they will be built when and as they shall be required.

Beyond Mound City the road passes through a country almost uninhabited. Work on the next section of fifty miles is progressing rapidly. As soon as that section shall be ready for examination and acceptance we are informed by the directors that all facilities as regards buildings, water-tanks, and other erections and structures which may be required for the complete, prompt, and thorough working of the road will be supplied when needed.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on this part of its railroad:

Locomotives.

No.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
	Inches.		Tons.	
1	56	17 x 24	32	Central Pacific R. R. Co., Sacramento, Cal.
2	62	14 x 22	26	McQueen, Schenectady, New York.
3	62	12 x 22	25	" " "
4	62	12 x 22	25	" " "
5	62	9 x 18	15	Vulcan Iron Works, San Francisco.
19	54	15 x 22	29	McQueen, Schenectady, New York.
21	60	16 x 24	32	" " "
22	60	16 x 24	32	" " "
23	60	16 x 24	32	" " "

Cars.

5 passenger cars.
3 smoking cars.
1 baggage car.
33 box cars.
107 platform cars.
14 hand cars.
1 section car.
3 tracklaying cars.

Total, 167 cars.

The foregoing locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come.

The road traverses a section of country thinly settled by a population that has hardly any commerce, and in consequence, business must necessarily be, for a time, very limited and unprofitable. As the road advances it is hoped that immigration will be attracted, and the resources and commerce of the country will be developed to such an extent that when, eventually, connection shall be made with the main line from the eastern States there will be enough of freight and travel to establish at least a paying business. The directors say that when and as the same shall become necessary, an ample supply of first-class rolling stock and other appurtenances will be provided.

That said section of fifty miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That this section of railroad and telegraph line are both first class.

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8 x 8 inches; at top, 4 x 5 inches; length 24 feet; they are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality, of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the Government of the section of fifty (50) miles of railroad and telegraph line hereinbefore described.

Respectfully submitted.

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California, }
County of Los Angeles. }

Louis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement, by him subscribed, are true and correct.

LEWIS M. FOULKE.
CALVIN BROWN.
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Ygnacio Sepulveda, Judge of the District Court of the 17th Judicial District of the State of California, in and for the county of Los Angeles, this 21st day of October, A. D. 1875, said court being a court of record.

YGNACIO SEPULVEDA,
District Judge of the Court aforesaid.

I hereby certify that Ygnacio Sepulveda is the acting Judge of said court; that I am well acquainted with his handwriting, and the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court, the 22d day of October, A. D. 1875.

[Seal] A. W. POTTS,

County Clerk and ex-officio Clerk of said District Court.

Department of the Interior.

Washington, D. C., 8th Nov., 1875.

Sir: I have the honor to submit herewith for your consideration and, if deemed proper, for your approval, the report under date of the 21st ult. of Messrs. Foulke, Brown & Sullivan, commissioners appointed by you to examine the Southern Pac. R. R. and Telegraph Line of California. They have examined an additional section of 50 miles of the (branch) road and telegraph line authorized by the 23d section of the act of 3d March, 1871 (known as the Texas Pac. R. W. act), to be constructed by the said Southern Pas. R. R. Co. This portion of road commences at the termination of section 1 of said branch, at a point in the northeast quarter of section 27, township 1 south, range 9 west, San Bernardino base and meridian, and runs thence 50 miles to a point in the southwest quarter of section 4, township 3 south, range 1 west, same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first class.

I therefore respectfully recommend the acceptance of said 2d section of 50 miles of branch road, and the issuance to the company constructing it of patents for lands

due on account of such construction, agreeably to the provisions of law.

Very respectfully,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the interior, 8th Nov., 1875. Z. Chandler, Secretary, submits to the President report of commissioners on 2d sec. of branch line, 50 miles, of Southern Pac. R. R. of California. Executive Mansion, Nov. 11, 1875. The within recomendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 30. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Examiner No. 31.

M. C. P. (Vignette.) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Oct. 2, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals, and of the endorsement thereon on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Def.

Los Angeles, California, June 22, 1876.

To Hon. Zachariah Chandler, Secretary of the Interior, of the United States of America;

Sir: We, the undersigned commissioners of the United States, appointed to examine the third (3) section of fifty (50) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third (23d) section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of this road, and for other purposes," approved March 3d, 1871, commencing at the termination of section No. two (2) of said railroad, at a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles to a point in the southwest quarter (S. W. ¼) of section twenty-four (24), in township five (5) south, range seven (7) east, San Bernardino base and meridian, certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance (50) miles there are:

10,200 feet of level line.			
8,700 feet of grades	0 to	5	feet per mile.
11,400 feet of grades	10 to	15	feet per mile.
12,400 feet of grades	15 to	20	feet per mile.
27,900 feet of grades	20 to	25	feet per mile.
10,500 feet of grades	25 to	30	feet per mile.
8,000 feet of grades	30 to	35	feet per mile.
17,300 feet of grades	35 to	40	feet per mile.
13,450 feet of grades	40 to	45	feet per mile.
5,700 feet of grades	45 to	50	feet per mile.
17,850 feet of grades	50 to	55	feet per mile.
18,000 feet of grades	55 to	60	feet per mile.
8,500 feet of grades	60 to	65	feet per mile.
3,600 feet of grades	65 to	70	feet per mile.
8,800 feet of grades	75 to	80	feet per mile.
5,100 feet of grades	80 to	85	feet per mile.
18,200 feet of grades	85 to	90	feet per mile.
9,400 feet of grades	90 to	95	feet per mile.
10,700 feet of grades	95 to	100	feet per mile.
38,300 feet of grades	100 to	102.96	feet per mile.

Total, 264,000 feet, of fifty (50) miles..

Maximum grade, 102 96-100 feet.

That, also, in this distance of fifty (50) miles, there are:

214,069.3 feet of straight line.
10,500 feet of curve of 0° 30′.
24,800 feet of curve of 1°.
2,000 feet of curve of 1° 30′.
5,450 feet of curve of 2°.
5,150 feet of curve of 3°.
2,030.7 feet of curve of 3° 15′.

Total, 264,000.0 feet or fifty (50) miles.

That of this distance of fifty (50) miles there are 6.17-100 miles laid with iron rails, and 43,83 miles laid with steel rails; that all the iron and steel is of American manufacture and of the best quality, and that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the iron rails weigh not less than fifty-six (56) pounds per lineal yard, and the steel rails weigh not less than fifty (50) pounds per lineal yard; that all the joints are made with fish-plates, and all the rails are fastened with four spikes to each tie; that there are four (4) sidings, having an aggregate length of 4,627 feet, each of them connected with the main track at both ends with good switches, and one siding 957 feet long, connected with the main track at one end with a good switch; that there are three (3) turntable tracks, each 285 feet long, and connected with the main track by means of a good switch; that there are 2,640 ties per mile (or a bearing surface equivalent to that number of ties) of redwood or red cedar timber, 6x8 inches, by 8 feet long; that the said section is ballasted with a superior quality of sand and gravel, of which the roadbed is com-

posed, no better material being found within very many miles of the line of the railroad. When more suitable material shall be found within a reasonable distance we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are forty-four (44) bridges, all built on pile foundation, as follows:

1 bridge	160 feet long,	10 spans	16 feet each.
3 bridges	96 feet long,	6 spans	16 feet each.
1 bridge	64 feet long,	4 spans	16 feet each.
1 bridge	58 feet long,	3 spans	16 feet each.
		1 span	10 feet each.
8 bridges	48 feet long,	3 spans	16 feet each.
7 bridges	32 feet long,	2 spans	16 feet each.
13 bridges	16 feet long,	1 span	16 feet each.
4 bridges	10 feet long,	1 span	10 feet each.
6 bridges	8 feet long,	1 span	8 feet each.

Total, 44 bridges.

That there are 92 culverts, as follows:

20 culverts	1x1,	box, of redwood.
19 culverts	1x2,	box, of redwood.
1 culvert	1x3,	box, of redwood.
37 culverts	2x2,	box, of redwood.
15 culverts	2x3,	box, of redwood.

Total, 92 culverts.

NOTE.—The above erasure appears thus in record.

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the trestle bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties) well known on the Pacific coast, and universally sought after on account of its great durability and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of the road.

No wood or coal houses have been built and they do not seem to be necessary. The dryness of the atmosphere, there being but a very light rainfall in winter, with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel-houses shall hereafter be found requisite, the officers promise that they shall be built immediately.

That there are two (2) coal platforms, viz.:

	Ft.	In.	Ft.	In.
One at White Water, size	14	7	by 30	3
One at Indian Wells, size	14	7	by 30	3

That there are five water-tanks, each of 18,000 gallons, capacity, as follows, viz.:

One at San Gorgonio, supplied from a well by a windmill.

One at Jacinto, supplied by gravity from a spring 2.82-100 miles distant.

One at White Water, supplied by gravity from a spring 2.9-10 miles distant.

One at Seven Palms, supplied by gravity from a spring 1.8-10 miles distant.

One at Indian Wells, supplied from a well by a windmill.

That there are twelve (12) section-houses for the accommodation of employees, all of them being sided with planed lumber, painted, and covered with shingles, viz.:

Two at San Gorgonio: One, 15x28 feet, with wing 10x14 feet. One, 12x16 feet, with wing 8x10 feet.

Two at Jacinto: One 12x16 feet, with wing 8x10 feet. One, 12x16 feet.

Two at White River: One, 12x18 feet. One, 12x16 feet, with wing 8x10 feet.

Four at Seven Palms, two, 12x16 feet, each wing 8x10 feet. Two, 12x16 feet.

Two at a point 40 miles from the commencement of this 50 miles section: One, 12x18 feet. One, 12x16 feet, with wing 8x10 feet.

That the sidings and turntable tracks hereinbefore mentioned are situated as follows, viz:

At San Gorgonio, one siding, 1,175 feet, switch at each end.

At San Gorgonio, one turntable, 285 feet of track.

At Jacinto, one siding, 975 feet, switch at one end.

At White Water, one siding, 1,191 feet, switch at each end.

At Seven Palms, one siding, 1,131 feet, switch at each end.

At Seven Palms, one turntable, 285 feet of track.

At Indian Wells, one siding, 1,130 feet, switch at each end.

At Indian Wells, one turntable, 285 feet of track.

That at San Gorgonio there are two (2) handcar and storehouses, one 10x12 feet and one 12x16 feet.

That at Indian Wells there is one station building, consisting of a passenger and a freight house combined, 20 feet by 42 feet, sided with planed lumber, painted, and covered with shingles and having platforms 42 feet long by 10 feet wide on each side.

That no locomotive stalls or engine-houses, machine or repair shops have been built on this section, those at Los Angeles, heretofore, on April 15th, 1874, reported upon being amply sufficient to meet its present requirements. If others should become necessary, the officers inform us they will build when and as they shall be required.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on this part of its railroad, viz:

Locomotives.

No.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
	Inches.	Inches.	Tons.	
1	56	17 x 24	32	Central Pacific R. R. Co., Sacramento, California.
2	62	14 x 22	26	McQueen, Schenectady, New York.
3	62	12 x 22	25	" " "
4	62	12 x 22	25	" " "
5	62	9 x 18	15	Vulcan Iron Works, San Francisco.
19	54	15 x 22	29	McQueen, Schenectady, New York.
21	60	16 x 24	32	" " "
22	60	16 x 24	32	" " "
32	60	16 x 24	32	" " "
25	60	16 x 24	32	" " "
29	60	16-x 24	32	" " "

Cars.

10 passenger cars.

3 passenger and baggage cars.

2 baggage and mail cars.

58 box cars.

137 platform cars.

31 hand cars.

10 push cars.

Total, 251 cars.

The foregoing locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come. The

road traverses a section of country thinly settled by a population that has hardly any commerce, and in consequence business must necessarily be, for a time, very limited and unprofitable. As the road advances it is hoped that immigration and settlement of the lands will be attracted, and the resources and commerce of the country developed, to such an extent that when eventually connection shall be made with the main line from the eastern States there will be enough of freight and travel to establish at least a paying business. The directors say that when and as the same shall become necessary, an ample supply of first-class rolling stock and other appurtenances will be provided.

That this section of railroad and telegraph line are both first class.

That said section of fifty (50) miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27th, 1866) been granted by the United States."

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8x8 inches; at top, 4x5 inches; length, 24 feet; they are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality, and of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the

Government of the section of fifty (50) miles of railroad and telegraph line hereinbefore described.

Respectfully submitted,

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California,
County of Los Angeles. } ss.

Lewis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

CALVIN BROWN.
LEWIS M. FOULKE.
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Ygnacio Sepulveda, Judge of the District Court of the 17th Judicial District, of the State of California, in and for the county of Los Angeles, this 22nd day of June, A. D. 1876, said court being a court of record.

YGNACIO SEPULVEDA,
District Judge of the Court aforesaid.

I hereby certify that Ygnacio Sepulveda is the acting Judge of said court; that I am well acquainted with his handwriting and the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this 22nd day of June, A. D. 1876.

[Seal] A. W. POTTS,

County Clerk and Ex-officio Clerk of the District Court of said District.

Department of the Interior.

Washington, D. C., 10 July, 1876.

Sir: I have the honor to submit herewith for your examination, and if deemed proper for your approval, the report, under date of the 22d ultimo, of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific Railroad and telegraph line of California. They have examined the 3d section of fifty miles of the branch road and telegraph line authorized by the 23d section of the act of 3d March, 1871 (known as the Texas Pacific Railway act), to be constructed by the Southern Pacific Railroad Company. This portion of road begins at the termination of section No. 2 of said railroad at a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., San Bernardino base and meridian, and running thence in a southeasterly direction fifty miles to a point in the S. W. ¼ of sect. 24, T. 5 S., R. 7 E., same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first class. I therefore respectfully recommend the acceptance of said 3d section of fifty miles of branch road, and the issuance to the company

constructing it of patents for lands due on account of such construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the Interior, 10th July, 1876. Z. Chandler, secretary, submits to the President report of Commissioners on 3d section, 50 miles, branch line of So. Pac. R. R. of Cal. Executive Mansion, July 21st, 1876. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 31. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 32.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior,

Washington, D. C., Oct. 21, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Def.

San Francisco, California, February 17th, 1877.

To Hon. Zachariah Chandler, Secretary of Interior of the United States of America.

Sir: We, the undersigned, commissioners of the United States, appointed to examine the fourth (4th) section of seventy-eight 59-100 (78 59-100) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third (23rd) section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3rd, 1871, commencing at or near San Fernando at the initial point of section number one (1) of said railroad heretofore reported upon, said point being in the northwest quarter (N. W. ¼) of section three (3), township two (2) north, range fifteen (15) west, San Bernardino base and meridian, and running thence northerly along the line of said railroad and ending at the termination of the 78 59-100 mile therefrom, in the northeast quarter (N. E. ¼) of section seventeen (17), township eleven (11) north, range twelve (12) west, San Bernardino base and meridian, certify: That we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are

such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance (78 59-100 miles) there are:

40,900	feet of level line.			
17,800	feet of grades	0 to	5	feet per mile.
20,300	feet of grades	5 to	10	feet per mile.
2,800	feet of grades	10 to	15	feet per mile.
16,586-8	feet of grades	15 to	20	feet per mile.
9,700	feet of grades	20 to	25	feet per mile.
15,675-9	feet of grades	25 to	30	feet per mile.
21,000	feet of grades	30 to	35	feet per mile.
14,975	feet of grades	35 to	40	feet per mile.
17,200	feet of grades	40 to	45	feet per mile.
17,637	feet of grades	45 to	50	feet per mile.
37,967-9	feet of grades	50 to	55	feet per mile.
24,816-3	feet of grades	55 to	60	feet per mile.
20,082-7	feet of grades	60 to	65	feet per mile.
12,400	feet of grades	65 to	70	feet per mile.
5,302-7	feet of grades	70 to	75	feet per mile.
24,300	feet of grades	75 to	80	feet per mile.
1,880-9	feet of grades	80 to	90	feet per mile.
6,300	feet of grades	85 to	90	feet per mile.
3,544-3	feet of grades	90 to	95	feet per mile.
8,485	feet of grades	95 to	100	feet per mile.
7,991-7	feet of grades	100 to	105	feet per mile.
23,961-0	feet of grades	105 to	110	feet per mile.
16,974-7	feet of grades	110 to	115	feet per mile.
26,351-8	feet of grades	115 to	116 16-100	ft per mile.

Total, 414,933-7 feet or 78.59-100 miles.

Maximum grade, 116 16.100 feet per mile.

That also in this distance (78.59-100 miles) there are:

317,063-3 feet of straight line.
32,543-1 feet of curve, 12′ to 1° inclusive.
13,339-5 feet of curve, 1° to 2° inclusive.
10,414-2 feet of curve, 2° to 3° inclusive.
8,921-8 feet of curve, 3° to 4° inclusive.
6,015-4 feet of curve, 4° to 5° inclusive.
11,123-3 feet of curve, 5° to 6° inclusive.
1,894-3 feet of curve, 6° to 7° inclusive.
7,637-4 feet of curve, 7° to 8° inclusive.
1,318-3 feet of curve, 9° 30′ inclusive.
4,663-1 feet of curve, 10°.

Total, 414,933-7 feet or 78 59-100 miles.
Minimum radius, 573.7 feet.

That this section of seventy-eight 59-100 (78.59-100) miles is laid entirely with steel rails. That all the steel is of American manufacture and of the best quality; and that the road is of the gauge of four feet, eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than fifty (50) pounds per lineal yard; that all the joints are made with fish plates, and all the rails are fastened with four spikes to each tie; that there are nine (9) sidings, having an aggregate length of 10,493 feet, each of them connected with the main track, at both ends, with good switches, and one siding, 1,669 feet long, connected with the main track at one end with a good switch; that there is one turntable track, 274 feet long, connected with the main track with a good switch; that there are 2,640 ties per mile (or a bearing surface equivalent to that number of ties) of redwood or red cedar timber, 6 by 8 inches by 8 feet long; that the said section is ballasted with a su-

perior quality of sand and gravel of which the road bed is composed, no better material being found within very many miles of the line of the railroad.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are fifty-six (56) bridges, all built on pile foundations, as follows:

1 bridge,	240 feet long,	15 spans,	16 feet each.
2 bridges,	128 feet long,	8 spans,	16 feet each.
2 bridges,	112 feet long,	7 spans,	16 feet each.
2 bridges,	96 feet long,	6 spans,	16 feet each.
6 bridges,	80 feet long,	5 spans,	16 feet each.
9 bridges,	64 feet long,	4 spans,	16 feet each.
2 bridges,	48 feet long,	3 spans,	16 feet each.
10 bridges,	32 feet long,	2 spans,	16 feet each.
22 bridges,	16 feet long,	1 span,	16 feet each.

Total, 56 bridges.

That there are one hundred and one (101) culverts, as follows:

20 culverts,	1 foot by 1	foot, box, of redwood.
1 culvert,	1 foot by 1½	feet, box, of redwood.
10 culverts,	1 foot by 2	feet, box, of redwood.
38 culverts,	2 feet by 2	feet, box, of redwood.
9 culverts,	2 feet by 3	feet, box, of redwood.
6 culverts,	3 feet by 4	feet, box, of redwood.
1 culvert,	4 feet by 5	feet, box, of redwood.
11 culverts,	4 feet,	open, of redwood.
2 culverts,	6 feet,	open, of redwood.
3 culverts,	8 feet,	open, of redwood.

Total, 101 culverts.

No stone suitable for building purposes could be found generally along the line of the road in places that were reasonably accessible. It would, in consequence of the rough and mountainous character of part of the country passed through, require a haul by wagon of at least ten miles to get a proper quality of stone to the points on the road where it could have been used, although in some instances a few ledges of rock might be found where the distances in a direct line would be much less.

The timber used in the construction of the bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific coast and universally sought after on account of its great durabilty and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary and suitable material can be found within a reasonable distance of the line of the road.

That in this section of seventy-eight 59-100 (78.59-100) miles there are three tunnels, having an aggregate length of 7,563.2-10 feet, viz:

Tunnel No. 18, situated 23 miles from the commencement of this section, 264-1 feet in length; all of which is on a 9° 30′ curve.

Tunnel No. 19, situated 22.6-10 miles from the commencement of this section, 332-6 feet in length; all of which is on a tangent.

Tunnel No. 20 (the San Fernando tunnel), situate five (5) miles from the commencement of this section, 6,966·5 feet in length; all of which is on a tangent.

These tunnels, being excavated through soft rock, required lining. They are well and substantially timbered throughout with best quality of coast redwood or Puget Sound cedar, the arch ribs which support the sheeting being in no case more than five feet apart from center to center, and being much nearer wherever the nature of the ground required it.

These tunnels, inside the timbering, have the following dimensions in the clear, viz:

Height from floor to soffit of arch,	20 ft. 10 in.
Height from floor to springing line of arch,	12 ft. 10 in.
Width at floor,	14 ft. 00 in.
Width at springing line of arch,	16 ft. 00 in.

That on the 9° 30′ curve the two latter dimensions are increased as follows, viz:

Width at floor,	15 ft. 00 in.
Width at springing line of arch,	17 ft. 00 in.

Suitable portals of timber, strongly framed, have been erected at the ends of each of the tunnels, and proper provisions have been made for full and perfect drainage.

No wood or coal houses have been built, and they do not seem to be necessary. The dryness of the atmosphere—there being but a light rainfall in winter, with no rain in summer—and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel houses shall hereafter be found requisite, the officers promise they shall be built immediately.

That there is one coal platform at Ravena, size, 19 feet by 139 feet.

That there are seven water-tanks, viz: One at Newhall, of 18,000 gallons capacity, supplied from a well by a windmill.

One at Lang, of 52,000 gallans capacity, supplied from Santa Clara creek through a pipe 4,450 feet long.

One at Ravena, of 52,000 gallons capacity, supplied by gravity from a spring distant about 3,000 feet.

One at Acton, of 5,200 gallons capacity, supplied from a well by a steam engine.

One at Alpine, of 52,000 gallons capacity, supplied by gravity from a spring 12,350 feet distant.

One at Lancaster, of 52,000 gallons capacity, supplied from a well by a steam pump.

One at Sand Creek, of 52,000 gallons capacity, supplied from a well by a windmill.

That there are section-houses for the accommodation of employees, as follows, viz:

One at San Fernando Tunnel, size 16 x 30 feet, with wing 12 x 16 feet.

Three at Newhall: One 16 x 30 feet, with wing 12 x 16 feet; one 14 x 22 feet; and one 12 x 24 feet.

Three at Lang: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

Three two miles east of Ravena: One 16 x 30 feet, with wing 12 x 16 feet. One 18 x 20 feet. One 12 x 14 feet.

Three at Alpine: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

Three at Lancaster: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

Three at Sand Creek: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

That all these houses are sided with rough lumber and covered with shingles, and all of them, except the one at San Fernando Tunnel, are painted.

That there are handcar and tool houses along the line of the road as follows, viz:

One at San Fernando Tunnel, 12 x 14 feet.

One at Newhall, 12 x 14 feet.

One at Lang, 12 x 14 feet.

One at Ravena, 14 x 20 feet.

One at Alpine, 12 x 14 feet.

One at Lancaster, 12 x 14 feet.

One at Sand Creek, 14 x 20 feet.

All these houses are sided with rough lumber and covered with shingles and all of them are painted, except the one at San Fernando tunnel.

That the sidings and turntable track hereinbefore mentioned are situated as follows, viz:

At San Fernando tunnel, 1 siding, 817 feet, switch at each end.

At San Fernando tunnel, 1 turntable, 274 feet of track.

At Andrews, 1 siding, 994½ feet, switch at each end.

At Newhall, 1 siding, 1,167 feet, switch at each end.

At Lang, 1 siding, 1,031½ feet, switch at each end.

At Ravena, 1 siding, 1,121 feet, switch at each end.

At Acton, 1 siding, 1,136 feet, switch at each end.

At Alpine, 1 siding, 1,536 feet, switch at each end.

At Alpine, 1 siding, 1,669 feet, switch at one end.

At Lancaster, 1 siding, 1,400 feet, switch at each end.

At Sand Creek, 1 siding, 1,290 feet, switch at each end.

That for the accommodation of passengers and freight business there are station-houses and freight buildings as follows, viz:

At San Fernando tunnel a passenger and freight house combined, 16 feet by 80 feet, made with rough lumber and covered with shingles, and having platforms 6 feet wide at the front and rear and one of 11 feet wide at one end of the building, and one of 23 feet wide at the other end of it.

At Andrews a freight-house, 18 feet by 30 feet, made with planed lumber, painted, and covered with shingles, and having platforms 10 feet wide at the front and rear and one of eight feet wide at one end of the building, and one of 22 feet wide at the other end of it.

At Newhall, a station building, consisting of a passenger and freight-house combined, 32 feet by 131 feet, made with planed lumber, painted, and covered with shingles, and having platforms 10 feet wide at each side.

At Ravena, a station building, consisting of a passenger and freight-house combined, 24 feet by 62 feet, made with planed lumber, painted, and covered with shingles, with platforms 10 feet wide on each side.

That there is at Ravena a sand-house, 12 feet by 20 feet, made with rough lumber, painted, and covered with shingles.

That there is at San Fernando tunnel an engine-house (of one stall), sided with planed lumber, painted, and covered with shingles. This, together with those at Mojave,

described below, and at Los Angeles, where the company has built an extensive engine-house, and with those at other points on the road, already reported upon, are amply sufficient to meet the present requirements of this section.

That no machine or repair shops have been built on this section. The company has erected at Los Angeles, on section number one of this line, heretofore reported upon, extensive machine and repair shops, which, with those at other points upon the road, also already reported upon, will be amply sufficient to meet all its requirements for some time to come.

Note.—At a point 1,500 feet north of the end of this section of 78.59-100 miles, to wit, at "Mojave Station," the company has constructed the following, intended for the use and operation of this section as well as for that of the section immediately north of it, viz:

One station building, consisting of a passenger and freight-house combined, 32 feet by 131 1-6 feet, made with rough lumber, painted, and covered with shingles. On three sides of the building there are platforms 10 feet wide. On the fourth side the platform is 50 feet long by 52 feet wide.

Three section-houses for accommodation of employees, viz:

One 16 x 30 feet, with wing 12 x 16 feet; one 14 x 22 feet, and one 12 x 14 feet.

Two handcar and tool-houses, each 12 x 14 feet.

One office, 20 x 40 feet.

One sand-house, 24 x 30 feet.

All these houses are sided with rough lumber, painted, and covered with shingles.

There are also at Mojave:

One engine-house of 15 stalls.

One coal platform, 28 x 422 feet.

Two water-tanks, each of 52,000 gallons capacity, supplied from a distant spring by gravity.

Five sidings, aggregate length 7,802 feet, switches at each end.

One spur track, 1,223 feet.

One turntable, with 1,014 feet of track.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on the entire line of its railroad, which includes this section of seventy-eight 59-100 miles.

Locomotives.

No.	Name.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
		Inches.		Tons.	
1	Huntington....	54	11 x 15	16	Danforth, Cooke & Co.
2	San Francisco..	60	14 x 22	25	Norris.
3	Pacific.....	60	14 x 22	25	Norris.
4	Comanche.....	60	14 x 22	26	Danforth, Cooke & Co.
5	San Mateo.....	60	14 x 22	26	Danforth, Cooke & Co.
6	California.....	60	16 x 24	32	Booth & Co.
7	Atlantic.....	60	16 x 24	32	Booth & Co.
8	Union.....	48	14 x 18	18	Booth & Co.
9	James Donahue	66	17 x 22	32	Danforth, Cooke & Co.
10	H. M. Newhall.	54	18 x 24	34	Danforth, Cooke & Co.
11	Menlo Park....	66	15 x 24	30	William Mason.
12	Racer	60	15 x 24	31	McKay & Aldus.
13	Shoshone	60	16 x 22	31	Norris.
14	Red Eagle.....	60	15 x 22	29	Danforth, Cooke & Co.
15	Ranger.....	60	15 x 24	31	McKay & Aldus.

Locomotives—Continued.

No.	Name.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
		Inches.		Tons.	
16	Black Deer.....	60	16 x 22	31	McKay & Aldus.
17	Orinoco.....	60	14 x 24	28	Norris.
18	Peeler.....	54	15 x 22	29	McQueen, Schenectady.
19	.....	54	15 x 22	29	McQueen, Schenectady.
20	.....	60	16 x 24	34½	Baldwin.
21	.....	60	16 x 24	32	McQueen, Schenectady.
22	.....	60	16 x 24	32	McQueen, Schenectady.
23	.....	60	16 x 24	32	McQueen, Schenectady.
24	.....	60	16 x 24	32	McQueen, Schenectady.
25	.....	60	16 x 24	32	McQueen, Schenectady.
26	.....	60	17 x 24	32½.	McQueen, Schenectady.
27	.....	60	17 x 24	32½	McQueen, Schenectady.
28	.....	60	17 x 24	32½	McQueen, Schenectady.
29	.....	60	16 x 24	32	McQueen, Schenectady.
30	.....	56	17 x 24	32	Central Pacific R. R. Co., Sacramento.
31	.....	62	14 x 22	26	McQueen, Schenectady.
32	.....	62	12 x 22	25	McQueen, Schenectady.
33	.....	62	12 x 22	25	McQueen, Schenectady.
34	.....	62	9 x 18	15	Vulcan Iron Works, San F. Co.
35	.....	54	18 x 24	32½	McQueen, Schenectady.
36	.....	54	18 x 24	32½	McQueen, Schenectady.
37	.....	54	18 x 24	32½	McQueen, Schenectady.
38	.....	54	18 x 24	32½	McQueen, Schenectady.
39	.....	54	18 x 24	32½	McQueen, Schenectady.
40	.....	54	18 x 24	32½	McQueen, Schenectady.
41	.....	54	18 x 24	32½	McQueen, Schenectady.
42	.....	54	18 x 24	32½	McQueen, Schenectady.
43	.....	54	18 x 24	32½	McQueen, Schenectady.
44	.....	54	18 x 24	32½	McQueen, Schenectady.

Cars.

34 passenger cars.
1 parlor car.
4 passenger and baggage cars.
6 smoking cars.
20 emigrant cars.
8 baggage cars.
1 officers' car.
1 pay car.
1 hunting car.
4 caboose cars.
1 boarding car.
117 box cars.
440 combination cars.
24 stock cars.
328 flat cars.
12 dump cars.
9 stone cars.
54 hand cars.
48 push cars.
2 wood cars.

The above locomotives and cars are amply sufficient to accommodate present commerce and travel, as this section of seventy-eight 59-100 miles runs through a country almost unsettled and undeveloped, affording but little, if any, present additional business to the road. The directors say that when and as the same shall become necessary an ample supply of first-class rolling stock and other appurtenances will be provided. That this section of railroad and telegraph line was completed and equipped on the 5th day of September, 1876, and that both are first-class.

That said section of seventy-eight 59-100 miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile. Size at bottom, 8x8 inches; at top 4x5 inches; length, 24 feet. They are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality, of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the Government of the section of seventy-eight 59-100 (78.59-100) miles of railroad and telegraph line hereinbefore described.

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California,
City and County of San Francisco. } ss.

Lewis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

LEWIS M. FOULKE.
CALVIN BROWN.
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Samuel H. Dwinelle, judge of the District Court of the Fifteenth Judicial District of the State of California, in and for the city and county of San Francisco, this 17th day of February, A. D. 1877, the same being a court of record.

As witness my hand and the seal of said court the date aforesaid.

SAML. H. DWINELLE,
District Judge of the Court Aforesaid.

I hereby certify that Samuel H. Dwinelle is the acting judge of said court, that I am well acquainted with his handwriting, and that the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this 17th day of February, A. D. 1877.

[Seal] THO. H. REYNOLDS,
County Clerk of the City and County of San Francisco, California, and Ex-Officio Clerk of said District Court of the Fifteenth Judicial District.

Department of the Interior.

Office of the Secretary.

Washington, D. C., 1st March, 1877.

Sir: I have the honor to submit herewith for your consideration and if deemed proper for your approval, the report, under date of the 17th ultimo, of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific

Railroad and Telegraph Line of California. They have examined the 4th section, 78.59 miles of the road, which said company are authorized by the 23d section of the act of 3d March, 1871 (16 Stat., 579), to build. Said section begins at a point in the N. W. ¼ of sect. 3, T. 2 N., R. 15 W., San Bernardino base and meridian, runs northerly, and ends at a point in the N. E. ¼, sect. 17, T. 11 N., R. 12 W., same base and meridian. They report said section as completed and equipped as a first-class railroad, and the telegraph line also as completed and first-class. I therefore respectfully recommend the acceptance of said 4th section, and the issuance to the company constructing it of patents for lands due on account of said construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

CHARLES T. GORHAM,

Acting Secretary.

The President.

[Endorsed]: Department of the Interior, 1st March, 1877. Charles T. Gorham, acting secretary, submits to the President report of commissioners on 4th section (branch line), 78.59 miles, of So. Pac. R. R. of California. Executive Mansion, March 2d, 1877. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 32, Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 33.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Oct. 2, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Def.

San Francisco, California.
December 6th, 1877.

To Hon. Carl Schurz, Secretary of the Interior of the United States of America:

Sir: We, the undersigned commissioners of the United States, appointed to examine the fifth (5) section of one hundred and eighteen 37-100 (118 37-100) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third (23) section of the act of Congress, entitled, "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved

March 3, 1871, commencing at the termination of section number three (3) of said railroad, at a point in the southwest quarter (S. W. ¼) of section twenty-four (24), in township five (5) south, of range seven (7) east, San Bernardino base and meridian, and running thence in a southeasterly direction along the line of said railroad, and ending at the termination of the one hundred and eighteenth 37-100 (118.37) miles from commencement at the southern boundary of the State of California, in the center of the Colorado river, at a point which would be, if the U. S. land surveys were extended into said river, in the southeast quarter (S. E. ¼) of section twenty-six (26), in township sixteen (16) south, of range twenty-two (22) east, San Bernardino base and meridian, certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying maps and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class:

That in this distance (118.37) miles there are:

139,448.1 feet of level line.

96,500.0 feet of grades, 0 to 5 feet per mile.

112,800.0 feet of grades, 5 to 10 feet per mile.

115,100.0 feet of grades, 10 to 15 feet per mile.

58,700.0 feet of grades, 15 to 20 feet per mile.

33,100.0 feet of grades, 20 to 25 feet per mile.

22,700.0 feet of grades, 25 to 30 feet per mile.

7,437.2 feet of grades, 30 to 35 feet per mile.

7,000.0 feet of grades, 35 to 40 feet per mile.
7,300.0 feet of grades, 40 to 45 feet per mile.
3,086.6 feet of grades, 45 to 50 feet per mile.
21,797.3 feet of grades, 50 to 52.8-10 feet per mile.

Total, 624,696.2 feet, or one hundred and eighteen 37-100 miles.

That also in this distance (118.37 miles) there are:

572,077N feet of straight line.
9,802.5 feet of curve, 0° 20′.
29,442.9 feet of curve, 0° 30′.
2,562.2 feet of curve, 1° 30′.
4,274.9 feet of curve, 2°.
4,144.0 feet of curve, 2° 40′.
483.5 feet of curve, 3°.
1,444.8 feet of curve, 4°.
737.2 feet of curve, 9°.

Total, 624,969.2 feet, or one hundred and eighteen 37-100 miles.

Minimum radius, 637.27 feet.

That said section of one hundred and eighteen 37-100 (118.37) miles is laid with steel rails; that all the steel is of American manufacture and of the best quality; that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than fifty (50) pounds per lineal yard; that all the joints are

made with fish plates and all the rails are fastened with four spikes to each tie; that there are nine sidings, having an aggregate length of 13,078 feet, each of them connected with the main track at both ends with good switches, and four (4) sidings, having an aggregate length of seven hundred and ten (710) feet, connected with the main track at one end with a good switch; that there are two (2) turntable tracks, having an aggregate length of eleven hundred and sixty-one (1,161) feet, each connected with the main track by means of a good switch; that there are 2,640 ties per mile (or a bearing surface equivalent to that number of ties) of redwood or red cedar timber 6 by 8 inches by 8 feet long; that the said section is ballasted with a superior quality of sand and gravel, of which the roadbed is composed, no better material being found within very many miles of the line of the railroad. When more suitable materials shall be found within a reasonable distance we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and the embankments are in strict conformity to the requirements of law and instructions.

That there is one (1) straining beam bridge across the Colorado river, 668 feet in length, consisting of six (6) fixed spans of 80 feet each, resting upon piled foundations, and of one (1) pivot drawbridge having two (2) spans of 93 feet 7 inches each. The pivot pier is constructed in the most substantial manner, and is founded on rock upon the southern bank of the river. Two hun-

dred and fifty-seven feet (257) *feet* of the north end of this bridge are included in this section of 118.37 miles.

That there are also 123 trestle bridges, all built on pile foundations, as follows:

1 bridge,	640 feet long,	40 spans,	16 feet each.
1 bridge,	272 feet long,	17 spans,	16 feet each.
1 bridge,	256 feet long,	16 spans,	16 feet each.
3 bridges,	208 feet long,	13 spans,	16 feet each.
2 bridges,	176 feet long,	11 spans,	16 feet each.
1 bridge,	160 feet long,	10 spans,	16 feet each.
1 bridge,	112 feet long,	7 spans,	16 feet each.
4 bridges,	96 feet long,	6 spans,	16 feet each.
10 bridges,	80 feet long,	5 spans,	16 feet each.
5 bridges,	64 feet long,	4 spans,	16 feet each.
9 bridges,	48 feet long,	3 spans,	16 feet each.
36 bridges,	32 feet long,	2 spans,	16 feet each.
48 bridges,	16 feet long,	1 span,	16 feet each.
1 bridge,	10 feet long,	1 span,	10 feet each.

Total, 123 trestle bridges.

There are 329 culverts, as follows:

ft.	ft.	
7 culverts,	1x1	box of red wood.
29 culverts,	1x2	box of red wood.
132 culverts,	2x2	box of red wood.
135 culverts,	2x3	box of redwood.
22 culverts,	3x3	box of red wood.
4 culverts,	3x4	box of red wood.

Total, 329 culverts.

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific Coast, and universally sought after on account of its great durability and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of the road.

No wood or coal houses have been built, and they do not seem to be necessary. The dryness of the atmosphere, there being but a very little rainfall in winter, with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel houses shall hereafter be found requisite, the officers promise that they shall be built immediately.

That no coal platforms have yet been erected on this section of 118.37 miles (one 20x150 feet has been built at Yuma 2,800 feet south of the end of this section, the same to be used in the operation of this part of the railroad.)

That there are two watertanks, each of 52,000 gallon capacity, as follows, viz:

One at Walters, supplied from a well by a steam pump.

One at Colorado river, supplied from the river by steam pump.

That there are twenty-one (21) section houses for the accommodation of employees, as follows, viz:

Three at Walters: One 14x40 feet, with wings 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at Dos Palmos: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at Volcano: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at 0.76 mile north of Flowing Well: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at Mammoth Tank: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at 2.58 miles south of Mesquite: One 14-40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at 7.25 miles south of Cactus: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

All of the above-described section houses are painted and covered with shingles, and each of them is provided with a double roof, painted.

That there are seven (7) handcar and tool houses on this section along the line of the road, viz:

One at Walters, size 14x20 feet.

One at Dos Palmos, size 14x20 feet.

One at Volcano, size, 14x20 feet.

One 0.76 mile north of Flowing Well, size, 14x20 feet.

One at Mammoth Tank, size 14x20 feet.

One at a point 2.58 miles south of Mesquite, size 14x20 feet.

One at a point 7.25 miles south of Cactus, size 14x20 feet.

All of these houses are sided with rough lumber, painted, and covered with shingles.

That the sidings and turntable tracks, hereinbefore mentioned, are situated as follows, viz:

At Walters, one siding, 1,815 feet with good switch at each end.

At Dos Palmos one siding, 1,171 feet with good switch at each end.

At Frinks Spring, one siding, 1,291 feet with good switch at each end.

At Flowing Well, one siding, 1,652 feet with good switch at each end.

At Tortuga, one siding, 1,500 feet with good switch at each end.

At Mammoth Tank, one siding, 917 feet with good switch at each end.

At Mesquite, one siding, 2,619 feet with good switch at each end.

At Cactus, one siding, 900 feet with good switch at each end.

At Pilot Knob, one siding, 1,213 feet with good switch at each end.

At Dos Dalmos, one turntable and track 331 feet in length.

At Pilot Knob, one turntable and track 830 feet in length.

No passenger stations or freight buildings have been built on this section of 118.37 miles, and none are required for the railroad passes through the Colorado desert, which is uninhabitable and without commerce of any kind.

(Note.—At a point 2,800 feet south of the end of this section, to wit, at Yuma station, in Arizona territory, that there is in course of construction by the Southern Pacific Railroad Company one station building, consisting of a passenger and freight house combined, 32 feet by 100 feet, to be built of planed lumber, and to be painted and covered with shingles, and to have platforms on each side the whole length of the building, and ten feet wide.

Also that there at said station (Yuma) the following structures, which have been completed:

One freight house, for the accommodation of river freight, 32 feet by 90 feet.

One engine house of 7 stalls.

One said house 18 by 35 feet.

One water tank of 52,000 gallons capacity, supplied from the Colorado river by a steam pump.

One coal platform 20 feet by 150 feet.

That there are also at Yuma:

Five sidings having an aggregate length of 5,562 feet, connected with the main track by good switches at each end. One spur track 1,100 feet in length, connected to the main track with a good switch.

One turntable, with 750 feet of track, connected with main track by a good switch.

These buildings, water tank, platform, etc., are constructed for and intended to be used in the operation of this section of 118.37 miles as well as for that of the section of railroad immediately south of it in the territory of Arizona.

That no locomotive stalls or engine houses, machine or repair shops have been built on this section, the extensive ones at Los Angeles and at other points on the line heretofore reported upon and those above mentioned at Yuma, Arizona territory, being amply sufficient to meet its present requirements. If others shall become necessary, the officers inform us they will be built when and as they shall be required.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on the entire line of its railroad, which includes this section of 118.37 miles.

Locomotives.

No.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Names of Makers.
	Inches.	Inches.	Tons.	
1	54	11 x 15	16	Danforth, Cook & Co.
2	60	14 x 22	25	Norris.
3	60	14 x 22	25	Norris.
4	60	14 x 22	26	Danforth, Cook & Co.
5	60	14 x 22	26	Danforth, Cook & Co.
6	60	16 x 24	32	Booth & Co.
7	60	16 x 24	32	Booth & Co.
8	48	14 x 18	18	Booth & Co.
9	66	17 x 22	32	Danforth, Cook & Co.
10	54	18 x 24	34	Danforth, Cook & Co.
11	66	15 x 24	30	William Mason.
12	60	15 x 24	31	McKay & Aldus.
13	60	16 x 22	31	Norris.
14	60	15 x 22	29	Danforth, Cook & Co.
15	60	15 x 22	31	McKay & Aldus.
16	60	16 x 22	31	McKay & Aldus.
17	60	14 x 24	28	Norris.
18	54	15 x 22	29	McQueen, Schenectady.

Locomotives—Continued.

No.	Diam. of	Size of cylinder and length of stroke.	Weight.	Names of Makers.
	Inches	Inches.	Tons.	
19	54	15 x 22	29	McQueen, Schenectady.
20	60	16 x 24	34½	Baldwin.
21	60	16 x 24	32	McQueen, Schenectady.
22	60	16 x 24	32	McQueen, Schenectady.
23	60	16 x 24	32	McQueen, Schenectady.
24	60	16 x 24	32	McQueen, Schenectady.
25	60	16 x 24	32	McQueen, Schenectady.
26	60	17 x 24	32½	McQueen, Schenectady.
22	60	17 x 24	32½	McQueen, Schenectady.
28	60	17 x 24	32½	McQueen, Schenectady.
79	60	17 x 24	32	McQueen, Schenectady.
30	56	17 x 24	32	Central Pacific R. R. Co., Sacramento.
31	62	14 x 22	26	McQueen, Schenectady.
32	62	12 x 22	25	McQueen, Schenectady.
33	62	12 x 22	25	McQueen, Schenectady.
34	62	9 x 18	15	Vulcan Iron Works, San Francisco.
35	54	18 x 24	32½	McQueen, Schenectady.
36	54	18 x 24	32½	McQueen, Schenectady.
37	54	18 x 24	32½	McQueen, Schenectady.
38	54	18 x 24	32½	McQueen, Schenectady.
39	54	18 x 24	32½	McQueen, Schenectady.
40	54	18 x 24	32½	McQueen, Schenectady.
41	54	18 x 24	32½	McQueen, Schenectady.
42	54	18 x 24	32½	McQueen, Schenectady.
43	54	18 x 24	32½	McQueen, Schenectady.
44	54	18 x 24	32½	McQueen, Schenectady.

Cars.

35 passenger cars.
1 parlor car.
23 emigrant cars.
8 baggage cars.
1 officers' car.
1 pay car.
1 hunting car.
8 caboose cars.
1 boarding car.
117 box cars.
440 combination cars.
24 stock cars.
1 passenger and baggage car.
8 smoking cars.
328 flat cars.
12 dump cars.
8 stone cars.
116 hand cars.
62 push cars.
2 wood cars.
20 water cars.

Total, 1,217.

The above locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come. The road traverses a section of country thinly settled by a population that has hardly any commerce, and in consequence business must necessarily be for a time very limited and unprofitable. As the road advances it is hoped that immigration and settlement of the lands will be attracted and the resources and commerce of the country developed to such an extent that when, eventually, connection shall be made with the main line from the eastern States, there will be enough of freight and travel to establish at least a paying business. The directors say that when and as the same shall become necessary an ample supply of first-class rolling stock and other appurtenances will be provided.

That this section of railroad and telegraph line are both first-class.

That said section of one hundred and eighteen 37-100 (118 37-100) miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8x8 inches; at top, 4x5 inches; length, 24 feet; they are set to a depth of four feet in the ground. No. 9 galvanized wire is used. The office instruments are of the very

best quality, of the most improved style, and are furnished by the best manufacturers.

We recommend the acceptance by the Government of the section of one hundred and eighteen 37-100 miles of railroad and telegraph line hereinbefore described.

Respectfully submitted,

EUGENE L. SULLIVAN,
ANDREW S. BENDER,
ZEBULOW B. STURGUS,
U. S. Railroad Commissioners.

State of California,
City and County of San Francisco. } ss.

Eugene L. Sullivan and Andrew S. Bender, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

EUGENE L. SULLIVAN.
ANDREW S. BENDER.

Subscribed and sworn to before me, E. D. Wheeler, Judge of the District Court of the Ninteenth Judicial District of the State of California, in and for the city and county of San Francisco, this sixth day of December, A. D. 1877, said court being a court of record.

E. D. WHEELER,
District Judge of Court Aforesaid.

I hereby certify that E. D. Wheeler is the acting judge of said court, that I am well acquainted with his handwriting, and that the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this tenth day of December, A. D. 1877.

[Seal] THOMAS H. REYNOLDS,
County Clerk of the City and County of San Francisco, California, and Ex-Officio Clerk of Said District Court of the Nineteenth Judicial District.

District of Columbia,
City and County of Washington. } ss.

Zebulow B. Sturgus, being duly sworn, says that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

ZEBULOW B. STURGUS.

Subscribed and sworn to before me, a notary public, this twenty-sixth day of December, A. D. 1877.

[Seal] M. P. CALLAN,
Notary Public.

Clerk's Office of the Supreme Court of the District of Columbia. }

District of Columbia.—ss.

I, R. J. Meigs, clerk of the said court, do hereby certify that M. P. Callan, Esq., whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof or acknowledgment, a notary pub-

lic in and for the said District, dwelling therein, commissioned, sworn, and duly authorized to take the same. And further that I am well acquainted with the handwriting of said M. P. Callan, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine, and the said instrument is executed and acknowledged according to the laws of this District.

In testimony whereof, I have hereunto set my name and affixed the seal of said court this twenty-sixth day of December, A. D. 1877.

[Seal]

R. J. MEIGS,
Clerk.
By R. J. Meigs, Jr.,
Assistant Clerk.

Department of the Interior.

Office of the Secretary,

Washington, D. C., 19th January, 1878.

Sir: I have the honor to submit herewith for your consideration the report, under date of the 6th ultimo, of Messrs. Eugene L. Sullivan, Andrew S. Bender, and Zebulow B. Sturgus, commissioners appointed by you to examine the Southern Pacific Railroad and Telegraph Line of California.

They have examined the 5th section of what is known as the branch line of said road, authorized by the 23d section of the act of 3d March, 1871, incorporating the

Texas Pacific Railroad Company (16 Stat., 579). Said section is 118 37-100 miles in length. It begins at a point in the S. W. ¼ of section 24, T. 5 S., R. 7 E., San Bernardino base and meridian; runs southeastward and ends in the center of the Colorado river at a point which, if the United States surveys were extended into said river, would be in the S. E. ¼ of sec. 26, T. 16 S., R. 22 E., same base and meridian.

The commissioners report said section as completed and equipped as a first-class railroad, and the telegraph line also as complete and first-class.

Said 23d section of the act of 1871 authorizes the Southern Pacific Railroad Company of California to construct its road "to the Texas Pacific Railroad at or near the Colorado river." The Texas Pacific Railroad not having been constructed at or near said river, the point of contact of said roads has not been ascertained, except as to the fact that it is within the Fort Yuma military reservation.

In view of your action last autumn in relation to said Southern Pacific Railroad's crossing said reservation, I have the honor to recommend that said section examined and reported on be accepted from the point of beginning to the point where the road intersects the western boundary of said reservation, which is represented on the map accompanying said report as a point in the S. E. ¼ of N. E. ¼, sec. 27, T. 16 S., R. 22 E., San Bernardino

base and meridian, and that patents for lands due on account of construction, according to provisions of law, issue to said Southern Pacific Railroad Company of California.

I am, sir,

Very respectfully,

Your obt. servant,

C. SCHURZ,

Secretary.

The President.

[Endorsed]: The secretary of the interior, 19th January, 1878, submits report of commissioners on the 5th section, 118.37 miles, of Southern Pacific Railroad, authorized by act of 3d March, 1871, and recommends that the road examined be accepted from the beginning of said section to the point where it crosses the western boundary of Fort Yuma military reservation, Cal. Executive Mansion, January 23, 1878. The recommendations of the secretary of the interior are hereby approved. The section of railroad is accepted between the points designated by him, and lands will be patented to the company accordingly. R. B. Hayes.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 33, Stephen Potter, Special Examiner. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA
Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Caption to Depositions.

Testimony of Charles E. Satterlee, taken before me, Everett J. Esselstyn, a notary public in and for the city and county of New York, in the State of New York, pursuant to the annexed notice herein dated August 27, 1895; and also testimony of Joseph H. Call, taken herein before me on September 12, 1895.

Attached hereto are the following papers:

1. Original notice for taking of testimony dated August 27, 1895.

2. Oath of Everett J. Esselstyn, notary public, verified September 10, 1895.

3. Testimony of Charles E. Satterlee, verified October 3, 1895.

4. Testimony of Joseph H. Call.

5. Copy of by-laws of Texas and Pacific Railway Company adopted at meeting of directors May 24, 1871, referred to in testimony of said Satterlee.

6. Copy of report of General Dodge, March 12, 1873.

And I do hereby certify that on Tuesday, September 10, 1895, at 10 A. M., there appeared before me at my office in the Mills Building, New York City, N. Y., on behalf of the said complainant herein, Joseph H. Call, Esq., of counsel, and on behalf of the said defendant, Southern Pacific Railroad Company, Maxwell Evarts, Esq., of counsel, and that upon the consent and request of said counsel the taking of testimony under the annexed notice was duly adjourned to Thursday, September 12, 1895, at 11 A. M., at the office of Winslow S. Pierce, Esq., 195 Broadway, New York City, at which place the following testimony herein was taken.

And I do hereby further certify that the said Charles E. Satterlee and Joseph H. Call, before the taking of their testimony herein, were first severally and duly sworn by me to testify the truth, the whole truth, and nothing but the truth in the above-entitled action; and that the taking of testimony herein was concluded on said twelfth day of September, 1895; and that the figures and words annotated in red ink on pages 4, 5, 8, 10, 13, 15, 18, 22, and 25 of the testimony of the said Charles E. Satterlee were made by me and are in my own handwriting, and are further explained by the foot-note corrections on page 25a of the testimony of said Satterlee.

October 3, 1895.

[Seal] EVERETT J. ESSELSTYN,
Notary Public New York County.

State of New York,
City and County of New York. } ss.

I, Henry D. Purroy, clerk of the city and county of New York, and also clerk of the Supreme Court for the said city and county, the same being a court of record, do hereby certify that Everett J. Esselstyn, before whom the annexed deposition was taken, was, at the time of taking the same, a notary public of New York, dwelling in said city and county, duly appointed and sworn, and authorized to administer oaths to be used in any court in said state, and for general purposes; that I am well acquainted with the handwriting of said notary, and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court and county, the ninth day of October, 1895.

[Seal] HENRY D. PURROY,
Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Notice to Take Depositions.

The above-named complainant will take notice that the defendants will take the testimony of C. E. Satterlee, S. H. H. Clark, and others, each of whom reside in the city of New York, State of New York, more than one hundred miles from the place of trial of said cause, and more than one hundred miles from any place at which the Circuit Court of the United States for the Ninth Circuit, Southern District of California, is appointed to be held by law, for use in behalf of defendants. Said testimony will be taken by and before Everett J. Esselstyn, notary public of said city of New York, State of New York, or, in case of his illness or inability to attend to the same, then before some other notary public of said city and State, neither of said notaries being attorney, counsel, or in any way interested in the above cause, at

the office of said notary in the Mills Building, in the city of New York, State of New York, on Tuesday, September 10, 1895, at ten o'clock A. M., and continuing from day to day there or at such place in said city as said notary shall determine to adjourn to. This to be done pursuant to sections 863, 864, 865, of the Revised Statutes, and the equity rules.

Los Angeles, California, August 27, 1895.

JOSEPH D. REDDING,
Attorney for Defendants.

BICKNELL & TRASK,
Of Counsel and Attorney for S. P. R. R. Co.

To Joseph H. Call, Esq.,
Special U. S. Attorney.

Los Angeles, California, August 27, 1895, when and where I receive copy of above notice, subject to all objections.

JOSEPH H. CALL,
Special Asst. U. S. Attorney.

[Endorsed]: No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America, Complainant, vs. Southern Pacific Railroad Company et al., Defendants. Notice to take depositions of C. E. Satterlee et al.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

Oath of Everett J. Esselstyn.

State of New York,
Southern District of New York,
City and County of New York. } ss.

Everett J. Esselstyn, being duly sworn, says that he is a notary public in and for the city and county of New York, and the person mentioned in the annexed notice before whom testimony in the above-entitled action is required by said notice to be taken; that he is not of counsel or attorney to either of the said parties hereto, nor is he interested in any way in the event of the above cause. And deponent further says that he will truly and faithfully take the testimony, as required under said notice, and a full and true report make in accordance with the rules and practice of this court.

E. J. ESSELSTYN,

Sworn to before me this tenth day of September, 1895.

GEO. W. SIMERS, Jr.,
Comm. of Deeds, City and County of N. Y.

State of New York,
City and County of New York. } ss.

I, Henry D. Purroy, clerk of the city and county of New York, and also clerk of the Supreme Court for the said city and county, being a court of record, do hereby certify that Geo. W. Simers, Jr., before whom the annexed deposition was taken, was, at the time of taking the same, a commissioner of deeds of New York, dwelling in said city and county, duly appointed and sworn, and authorized to administer oaths to be used in any court in said State, and for general purposes; that I am well acquainted with the handwriting of said commissioner; and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court and county the tenth day of October, 1895.

[Seal] HENRY D. PURROY,
Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Stipulation as to Taking Depositions.

Appearances:

Joseph H. Call, Esq., for Complainant.

Lewis E. Payson, Esq., for Defendants.

It is stipulated hereby that the depositions this day to be taken may be first taken in shorthand, and then reduced to typewriting under the direction of Mr. Everett J. Esselstyn, notary public; after having thus been reduced to typewriting, to be examined, and, if necessary, corrected by the witness, and one copy of the same to be furnished to each of the counsel; then the deposition thus corrected to be sworn to by witness and attested by the notary. All formalities as to caption and certificate by the notary are hereby waived. The deposition when taken and completed to be by the notary addressed to the clerk of the United States Circuit Court, Los Angeles,

California, and the envelope endorsed with the title of the cause.

It is understood that any corrections of the deposition, unless an obvious clerical error, shall be made by a footnote.

Deposition of Charles E. Satterlee.

CHARLES E. SATTERLEE, called and sworn as a witness on behalf of defendants, testifies as follows:

Q. 1. State your name, age, residence, and occupation.

A. Charles E. Satterlee; age, 63 years; residence, Brooklyn, New York. I am secretary and treasurer of the Texas and Pacific Railway Company.

Q. 2. How long have you been secretary of the Texas & Pacific Railway Company? A. Since 1875.

Q. 3. Have you in your custody the records of the meetings of the board of directors, the stockholders, and the executive committee of that corporation?

A. Yes, sir.

Q. 4. In how many different volumes are those contained? A. Three.

Q. 5. Have you those now present? A. Yes, sir.

Q. 6. Will you kindly produce a record of the meetings of the board of directors of that company, commencing with its organization, and give me the dates of the different meetings of that board, from the date of the organization of the company down to and including October 16, 1871?

A. May 23, 1871, was the first meeting; May 24, 1871; and October 16, 1871.

Q. 7. Will you look at the record of the meeting of the stockholders of the Texas Pacific Railway Company, and in like manner give me the dates of the meetings of the stockholders from the date of the organization of the company in March, 1871, down to the first of October, 1871?

A. The first meeting was April 15, 1871; April 17, 1871; and May 23, 1871.

Q. 8. Will you kindly turn to the records of the meetings of the executive committee of this corporation, and give me the dates of the record of the meetings of that committee from the date of the organization of the company in March, 1871, down to and including September 8, 1871?

A. June 19, 1871, July 15, 1871, July 21, 1871, July 28, 1871, September 8, 1871. (1)

(It is stipulated that the testimony of this witness is objected to by the Government as incompetent, immaterial, and irrelevant, without the necessity of repeating the same with respect to each question.)

Q. 9. Will you cause to be made, Mr. Satterlee, a copy of these different records of these meetings, the dates of which you have given, and furnish such copy to the notary public to be attached to this deposition as a part of your deposition? A. Yes.

(Same objection.)

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(1) See footnote, page 25a

Cross-Examined by Mr. CALL.

X. Q. 10. Mr. Satterlee, what time did the Texas & Pacific Railway Company hold its annual meeting for the election of directors in 1871?

A. The first meeting was a meeting of the commissioners appointed by the Government.

X. Q. 11. The original incorporators named by the act of Congress served first? A. Yes.

X. Q. 12. Then when was the next election held?

A. (2) I think there was an adoption of by-laws following that. When the directors were elected, they adopted by-laws. Let me refer to those by-laws and find out what the date is; I can't recall.

X. Q. 13. Have you a copy of those by-laws?

A. Yes; they are a part of this record, I think it is embraced in those dates I have given.

X. Q. 14. You will furnish a copy of the by-laws, will you, as a part of your deposition? A. Oh, yes.

(It is understood that a copy of the by-laws of the company shall be furnished, which were in force in 1871.)

X. Q. 15. At what meeting of the board of directors in 1871, or 1872, were the officers of the company first chosen?

A. The charter officers, I presume you mean, of course?

X. Q. 16. I mean the president, secretary, treasurer, and chief engineer?

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(2) See footnote on page 25a.

A. That was the first meeting, May 23, 1871; not the chief engineer, but the president, vice-president, treasurer, and secretary—the charter officers.

X. Q. 17. Who were elected president, vice-president, secretary, and treasurer at that meeting?

A. Marshall O. Roberts was elected president, Henry G. Stebbins was elected vice-president, Edwards Pierrepont was elected treasurer, and E. B. Hart was elected secretary.

X. Q. 18. When was there a chief engineer elected?

A. I shall have to look over the records to find out that; the general procedure is that he is appointed, and then the appointment is confirmed. I do not see any record of the appointment, any more than here is a record of fixing his salary.

X. Q. 19. At what meeting was that?

A. That was the meeting of July 15, 1871.

X. Q. 20. At the meeting of the executive committee of July 15, 1871, the salary of the chief engineer was fixed at how much? A. $5,000.

X. Q. 21. And who was named in there as being the chief engineer? A. Gen. George P. Buell.

X. Q. 22. Was that action of the executive committee approved by the board of directors?

A. I do not see any approval of it. There are minutes here of October 21, 1872, of the board of directors, which says "the minutes of the executive committee from the twenty-first of May, to date"—it doesn't give the year—"were then read, when, upon motion, it was resolved that the action of the executive committee, as reported to this board, be and the same is hereby approved, ratified, and confirmed."

X. Q. 23. Now, I will ask you to give the date of that resolution and to read that part of it in full?

A. "At a stated meeting of the board of directors of the Texas and Pacific Railway Company, held at its office, 177 West street, October 21, 1872"—giving the names of the directors present—"minutes of the preceding meeting were read and approved. The minutes of the executive committee from the twenty-first of May to date were then read, when, on motion of Mr. J. S. Harris, it was resolved that the action of the executive committee, as reported to this board, be and the same is hereby approved, ratified, and confirmed."

X. Q. 24. Does that refer to the minutes you previously read of the executive committee, or to some report made outside of that?

A. It is impossible for me to answer that question. I was not secretary at the time, and therefore it is a record as it stands.

X. Q. 25. What record have you of the board of directors showing the receipt of reports of the officers of the company during 1871 or 1872?

A. No more than from time to time the president would submit a report as he thought best.

X. Q. 26. Were those reports at stated periods or at any time?

A. Oh, no, not at all; except the president's own report to the board and to the stockholders.

X. Q. 27. The annual report?

A. Annual and sometimes semiannual, whenever he thought necessary; (3) (it was an organization; the road was in course of organization,) and he submitted his report as he thought best.

X. Q. 28. Have you those reports in your control?

A. I have, sir, all printed reports that he submitted, and they were all printed, as far as I know.

X. Q. 29. Have you any record of the proceedings of the executive committee or board of directors of the Texas & Pacific Railway Company, subsequent to the date of October 16, 1872, in reference to the approval of any report, or in reference to the approval of any map concerning any route of the Texas & Pacific Railroad between Marshall, Texas, and the Pacific ocean, at the bay of San Diego, or covering any part of that line?

A. These are all the records that I have here, from the organization of the company—records of the proceedings of the directors, stockholders and executive committee, from its organization to the present time.

X. Q. 30. Are you familiar enough with those records to state whether there is any record of the proceedings of the board of directors, or of the executive committee, concerning those matters, contained in those records?

A. Yes.

X. Q. 31. I will thank you to turn to the record showing the action of the company through its executive committee or board of directors, upon the matter of that survey, or the filing of a map locating such a survey, or location any line of general route.

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(3) See footnote, page 25a.

A. You understand that while I am familiar to a certain extent, I cannot be familiar with every proceeding of every meeting for three or four years.

X. Q. 32. Take your time; you can turn to it more conveniently than anybody else, and you can take your time to do it.

(Objected to by defendants' counsel as improper cross-examination.)

A. I recall one particular one—April 4, 1873.

(By agreement, the direct examination of the witness is resumed.)

By Mr. PAYSON.—Q. 33. Mr. Satterlee, instead of your making a copy of all this record and attaching it as a part of your deposition, I will ask you first, after having made a careful examination of the record of the different meetings of the board of directors, of the executive committee, and of the stockholders, held on the dates which you have already given, to state whether in any of those records there is any reference to or action thereupon had by either the stockholders, the directors or the executive committee, with reference to any map of location of the line of the Texas and Pacific Railroad in the State of California, from the date of the organization of the company down to and including October 16, 1871?

(Same objection.)

A. I have examined the minutes referred to, and do not discover anything relating to a map of the line of that road.

Q. 34. Will you kindly cause to be made and furnished

to Mr. Esselstyn, the notary, a copy of the by-laws of the corporation adopted on May 24, 1871?

(Same objection.)

A. Yes.

Cross-Examination (Resumed).

By Mr. CALL.—X. Q. 35. You recently examined the records in reference to the filing of a map of route, didn't you, Mr. Satterlee—the minutes of the board of directors and of the executive committee?

A. Yes, sir; between those dates.

X. Q. 36. Did you examine those records with reference to any other dates in respect to such maps or surveys?

A. No; I didn't go over the whole book.

X. Q. 37. You examined them?

A. I simply confined myself to what I was requested to look at—between those particular dates.

X. Q. 38. Can you at this time refer to any action of the executive committee or board of directors with respect to the adoption of a line of route, or of a map of location, between the Pacific Ocean and Marshall, Texas?

A. The only minute that I discovered was the one that I called attention to, (4) April 4, 1873, relating to the adoption of that line in California.

X. Q. 39. Please turn to the meeting of July 15, 1871, of the executive committee—the minutes of the meeting of the executive committee of the Texas and Pacific Rail-

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(4) See footnote, page 25a.

road Company, and read what was done at that meeting with reference to the fixing of the salary of the chief engineer.

A. It was "Resolved that until further ordered by the executive committee, the salaries authorized to be paid by the president to Gen. George P. Buell, as chief engineer, to his assistant, and to the various clerks designated below, be and the same are hereby confirmed. George P. Buell, chief engineer, $5,000; Charles J. Quetil, assistant engineer, $2,500; W. P. Talboys, assistant secretary, $2,500; C. E. Satterlee, first-bookkeeper, $2,400; Philip White, copyist, $400; John Cunneen, porter, $600.

X. Q. 40. I will ask you to produce before the notary the report of the chief engineer and of the president, and if more than one, such reports as have been made during the years 1871 and 1872?

A. Of course, I have them; they are numerous.

X. Q. 41. I only wish one or two, or perhaps none of them.

A. Some are printed and some are written.

X. Q. 42. I will ask you to produce them, so that I can examine them? A. Produce them where?

X. Q. 43. Right here before the notary; I would like to look at them to see what they contain.

A. Of course, I have profiles, too, big bulky things, and it will take me a long time to look up everything. The original name of that corporation was Texas Pacific Railroad Company, and it was changed by act of Congress to Texas and Pacific Railway Company.

X. Q. 44. You say you have profiles of the lines of the surveys in California?

A. I imagine I have. That is a printed report, and here is another one printed. I think those embrace the details of the survey made. You must recollect that we had numerous parties in the field trying to select a definite route, and each engineer made his special report, and then they adopted a definite line.

Mr. CALL.—I offer in evidence on cross-examination the following resolution of the board of directors of the Texas and Pacific Railway Company, at the special meeting of April 4, 1873:

"On motion, the following resolution was adopted:

"Resolved, that the following act of Congress, amending the charter of this company, be and the same is hereby, accepted by this company: 'An act supplemental to an act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road and for other purposes," ' approved March 3, 1871: Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that the face value of all bonds hereafter issued by the Texas and Pacific Railroad Company under the provisions of act approved March 3, 1871, shall at the option of the company be (5) paid either in gold or other lawful money of the United States, bearing interest at like option of the company either in gold or other lawful money of the United States; and any mort-

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(5) See footnote, page 25a.

gage heretofore executed by said company securing bonds payable in any lawful money of the United States other than gold, and the bonds recited therein, and to secure which said mortgage was given, are hereby legalized, and said mortgage and (6) the bonds shall have the same effect as though they had been authorized by the act to which this is a supplement; provided that in all other respects the requirements of that law in regard to such mortgage and bonds have been fully complied with.' "

X. Q. 45. The Texas and Pacific Railroad Company did execute a mortgage to secure bonds covering the lands granted to the company by the act of Congress of March 18, 1871, I believe?

A. I believe they did; I believe this construction mortgage covered those lands; I cannot say positively, but I think so.

X. Q. 46. You can refer perhaps to your records to show that such a mortgage was given?

A. The company executed two mortgages, one on the lands, but the lands were in Texas. You see the State of Texas donated about fifteen mllions, as well as the United States Government, and the company executed a land mortgage and a construction mortgage. The construction mortgage covered all the lands; a copy of it is here in the records.

X. Q. 47. Covering all the lands?

A. The lands from the general Government.

X. Q. 48. Including those in California?

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(6) See footnote, page 25a.

A. All the lands expected to be gotten from the general Government.

X. Q. 49. Can you furnish a copy of that mortgage, and attach it to your deposition?

A. I don't know as I have got a printed copy of it; I may have possibly; if I have, I will.

X. Q. 50. When was that mortgage given?

A. The construction mortgage was made the first day of June, in the year 1872; the land mortgage was made the first day of July, 1872.

X. Q. 51. You are reading from your records?

A. These are the records of the board, in which the mortgages are spread out in detail; one follows the other, commencing with the land mortgage.

X. Q. 52. The land mortgage you refer to covered the congressional land grant in California, did it?

A. I say I am not certain until I read it; the construction mortgage is the one, I think, that covers it.

It is stipulated that at the meeting of the board of directors of the Texas & Pacific Railroad Company, held October 21, 1872, the said board of directors authorized the execution of a mortgage to secure bonds to the amount of $40,000 per mile of completed road, which said mortgage was subsequently executed; and at said meeting provided in reference thereto as follows: (7) "And that said mortgage securing these bonds was declared to be a first mortgage upon the said railway, its equipment and franchises, and upon 15,000,000 of acres of

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(7) See footnote, page 25a.

land donated by the Government of the United States of America." (8)

And further providing in reference to the form of said mortgage bonds as follows:

"This bond is one of a series of bonds, each of like tenor and date, issued to the extent of $40,000 per mile of completed road, all of which are equally secured by a first mortgage of even date herewith, duly executed and delivered by said company to J. Edgar Thompson and Samuel M. Felton, trustees, conveying to them the railways constructed and to be constructed of the said company from a point on the said railway line at the boundary between the States of Louisiana and Texas westward through Marshall, in the State of Texas, aforesaid, to San Diego, on the Pacific Ocean, in the State of California."

And further providing as follows:

"As an additional security for the payment of this bond, upward of fifteen million acres of land, donated and granted by the Government of the United States to aid in the construction of the railways of said company, which lands the trustees aforesaid are empowered by said conveyance to sell, and with the proceeds of sales to redeem the bonds from time to time."

Mr. CALL.—I offer in evidence, on cross-examination, the following resolution of the executive committee of the Texas and Pacific Railroad:

"At a meeting of the Executive Committee, held on Saturday, July 15, 1871: Present, the president, Marshall

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(8) See footnote, page 25a.

O. Roberts, H. G. Stebbins, vice-president, Thomas A. Scott, W. T. Walters, and Edwards Pierrepont," it was resolved, "That the president be authorized to have the surveys made immediately after receiving information that donations from any of the several counties are ratified"; and the following marginal note, "President authorized to have surveys made immediately after receiving information of donations."

I also offer the following:

"A communication from chief engineer, Gen. George P. Buell, on the subject of 3-6 gauge was accepted and placed on file."

Also the following resolution of the same date:

"On motion of Mr. Thomas A. Scott, it was resolved that the treasurer be authorized to pay vouchers duly certified by the president, for the office expenses and the expenses of the engineers' department."

X. Q. 53. You have produced before the notary, Mr. Satterlee, some of the reports of the chief engineer to the board of directors?

A. To the president of the company.

X. Q. 54. Have you produced all of such reports made during the years 1871 and 1872?

A. Oh, I can't say if I have produced them all; I have produced all that I know of—all that I can lay my hand on. I have not hunted up all my records; it is impossible; it would take me a month.

X. Q. 55. There may be, then, some other reports besides these that you have here? A. Possibly.

X. Q. 56. Well, isn't it very likely that that is so?

Mr. PAYSON.—I object to that; let the witness testify as to what he may know.

X. Q. 57. State what you know, to the best of your belief—whether you have produced all the reports made by the chief engineer during the years 1871 and 1872?

A. I couldn't answer that; I have not been asked for that. I can only produce what reports I have at hand and on file; I have made no exhaustive search.

X. Q. 58. Well, I will ask you to produce before the notary all the reports of the chief engineer, made to the president of the company, or to the board of directors of the company, during the years 1871 and 1872?

A. Well, in what time?

X. Q. 59. Take your reasonable time to examine your papers and records.

A. I will look and see what I have; that is all I can do.

X. Q. 60. Of course, I only wish to have produced those reports concerning the map covering that portion of the line in California or any portion of it, or in reference to a proposed location of that line, or a survey of the line in California east of San Diego?

A. In what time?

X. Q. 61. 1871 and 1872.

A. (9) There were no surveys in that time.

X. Q. 62. There was no survey?

A. (10) No, certainly not; I can answer that offhand.

X. Q. 63. There was no survey, you say?

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(9) (10) See footnote, page 25a.

A. (11) It is impossible; it was a wild country; the engineer corps had to be organized, and it took a long time; it was a country overrun by Indians—a wild country; it could not have been done in that short time. I do not think it is possible there was any survey. Of course, the general location is one thing and a definite location is another.

X. Q. 64. Then confine your examination to the location of the line, either general or otherwise.

A. The reports of the chief engineers to the president?

X. Q. 65. You have no other report from any engineer in reference to the filing of the map of general route, or the adopting of a line of general route, in California? I suppose you know that the president and other officers of the Texas and Pacific Railroad Company filed in the interior department a map of general route covering the line in California?

A. Yes, I am aware of that.

X. Q. 66. Well, what I want is to have you produce, if you will, the record showing the reports of the engineers, or some engineer, with reference to the filing of that map, if there is any such?

A. Why, that map must have been filed by the engineer himself.

X. Q. 67. Very likely.

A. He would make no report on which that was based. In other words, it just amounts to this: The company was organized—

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(11) See footnote, page 25a.

X. Q. 68. Well, proceed with what you were saying about the filing of that map in 1871.

Mr. PAYSON.—You are speaking of your own knowledge now?

The WITNESS.—Well, as far as my own knowledge goes; I am speaking now simply from hearsay, because my own knowledge is based on general conditions as I recollect them.

Mr. PAYSON.—And probabilities?

The WITNESS.—And probabilities.

Mr. PAYSON.—Well, I object to that.

The WITNESS.—As far as that is concerned, then, of course, I cannot speak from actual knowledge, because I was not an officer of the company at that time.

X. Q. 69. Did the president of the company make annual reports to the board of directors touching his action during any previous interval? A. Yes, sir.

X. Q. 70. Have you those reports here?

A. That, I believe, is the first one. (Producing report.)

X. Q. 71. This is dated May, 1872. Is there one prior to that? A. I think not.

X. Q. 72. Are these reports which you now produce the only reports of the president covering the years prior to 1874?

A. All that I know of that are printed; there may be some on the minute-books.

X. Q. 73. On what minute-books?

A. There may be something included in the minute-books in the nature of a report. Those are all I have of

the president, except what may possibly be in the records of the company or in the minute-books of the company rather.

X. Q. 74. When did you first become secretary of this Texas and Pacific Railroad? A. 1875.

X. Q. 75. Who was the chief attorney for the company at that time? A. I can't recollect.

X. Q. 76. Can you refer to your records and see who was the chief attorney at that time?

A. No, I do not think that appears.

X. Q. 77. Who had authority to appoint attorneys?

A. The president, subject to the approval of the board. The chief attorney in 1875? I question whether there was a chief attorney then. Governor John C. Brown became general solicitor of the company in 1876, I think.

X. Q. 78. How long did he continue?

A. Oh, he continued up to—I can't say; he became president of the company finally, but he had been acting in the capacity of counsel for it. Oh, I should say from 1876 perhaps to 1882 or 1883, somewheres along there; I can't say positively; that is a mere surmise. Previous to that time—previous to his appointment as general solicitor, I don't know as he was a regularly designated chief counsel. Edwards Pierrepont was made treasurer of the organization, and in the organization was the advising counsel of the company.

X. Q. 79. You will attach to your deposition, as a part of it, the by-laws adopted by the company in 1871, will you? A. Yes, sir.

Redirect.

(By Mr. PAYSON.)

R. D. Q. 80. In answer to a question of Mr. Call, you say the first line of route of the Texas and Pacific Railroad in California which appears to have been acted upon by either the board of directors or the executive committee is shown by the records of April 4, 1873. Will you read that record, and let it be inserted?

Mr. CALL.—I object to the question as incompetent, immaterial, and irrelevant, and upon the further ground that it contains an incorrect hypothesis.

A. The record is as follows: "The president submitted the report of Gen. Dodge, chief engineer, on the line from San Diego to Fort Yuma. On motion, it was resolved that the line by San Gorgonio Pass, known as No. 4, be, and the same is hereby, adopted as the route from San Diego, with such modifications as in the judgment of the president may be to the best interests of the company."

R. D. Q. 81. What date is that?

A. (12) April 4, 1873.

R. D. Q. 82. Is there any reference in any of these records of either the stockholders' meetings, or of the meetings of the board of directors, or of the meetings of the executive committee, that refers to any line of route in California prior to this, so far as you have been able to discover? A. Prior to 1873?

R. D. Q. 83. Yes.

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(12) See foot note, page 25a.

A. None that I have been able to discover.

R. D. Q. 84. Can you read now what route No. 4 is from this report of Gen. Dodge, so that it may appear of record?

(Same objections.)

A. I do not know whether it is the route or not. I cannot read it as route No. 4.

Mr. PAYSON.—I offer in evidence the report of Gen. G. M. Dodge, chief engineer, dated March 12, 1873.

(Objections reserved.)

The report is as follows:

(Said report is hereto annexed.)

Mr. PAYSON.—I also offer in evidence an extract from the report of Gen. Dodge, chief engineer, found in the printed report of May, 1874, and commencing on page 11 of such printed report, as to the route of the Texas and Pacific Railroad, which extract is as follows:

"Beginning at Fort Yuma, from there the line runs in a northwesterly direction, passing to the north of the sand hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert; leaving the mud volcanoes about five miles to the south, and the Dos Palmos stage station about the same distance to the north, we reach the Cabazon valley, 113 miles from Ft. Yuma; thence on nearly the same course 50 miles, to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile

south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto which is known as the Potrero (or Pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains. These plains lie between the main range and the Santa Ana range, and down the Temecula Plains to the head of Temecula canyon, and down the canyon where the Temecula breaks through the Santa Ana range, 10 miles to the open valley, striking the coast near the (13) San Coronado ranges, about 40 miles north of San Diego; then south and down the coast on the western slope of the Soledad mountains, crossing the Soledad, San Luis Rey, San Dieguito, the ravine of La Jolla, skirting False bay; then to the shore of San Deigo bay, and along the shore of the bay to the depot grounds of the Texas Pacific Railway below the Pacific Steamship Company's wharf. Distance from the Pima villages on the Gila river, 444.4 miles."

(Objected to as incompetent and irrelevant.)

Footnote corrections to foregoing deposition made in accordance with stipulation on page 3, lines 3 and 4:

Page 4, Q. 8:

Add to answer, after "September 8, 1871," the words, "and September 11, 1871."

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(13) See footnote, page 25a.

Page 5, Q. 12:

Following "A," and before the words, "I think," insert, "The election of directors was held May 23, 1871."

Page 8, lines 1 and 2:

Strike out the words, "It was an organization; the road was in course of organization."

Page 10, X. Q. 38, last line:

After the words, "I called attention to," insert, "Directors' meeting of."

Page 13, line 4:

Strike out the word "paid."

Line 11, strike out the word "the."

Page 15:

Erase quotation marks at beginning of line 6, and at end of line 9.

Page 18:

In correction of answers to questions 61, 62, and 63, I find, upon examination of the reports submitted to Mr. Call during this witness' examination, that an engineering party was put in the field to survey from San Diego east in July, 1872, and that they had surveyed as far as the Colorado river by January 1, 1873, and reported to the chief engineer on February 3, 1873, the result of their work.

Page 22, R. D. Q. 81:

Answer should read, "Special meeting of directors of April 4, 1873."

Page 25:

Strike out "San Coronado ranges," and insert in place thereof, "Santa Marguerita ranches."

C. E. SATTERLEE,

The foregoing testimony of Charles E. Satterlee was subscribed by him and sworn to before me this 3d day of October, 1895.

E. J. ESSELSTYN,
Notary Public of New York Co.

Deposition of Joseph H. Call.

JOSEPH H. CALL, called and sworn as a witness on behalf of the defendants, testifies as follows:

By Mr. PAYSON.—Q. 1. What is your name, age, and place of residence?

A. Joseph H. Call; 37 years old; residing at Los Angeles, Cal.

Q. 2. What is your occupation?

A. Attorney at law.

Q. 3. And one of the counsel in this case for the Government? A. Yes, sir.

Q. 4. How long have you lived in California?

A. About eight years.

Q. 5. Will you look at the map on the table before you, and say, in a general way, whether in your judgment it is substantially an accurate map of the country from Yuma to San Gorgonio Pass and in and about Los Angeles, and thence south to the city of San Diego, as the map appears, irrespective of any markings upon it in colors?

(It is understood that the Government reserves objections to all the questions proposed to be asked this witness.)

Mr. PAYSON.—As to their substance?

Mr. CALL.—Yes.

A. I cannot say whether the map is an accurate map or not, but it appears to be like other maps that I have seen.

Q. 6. Well, in your judgment, it is not a substantially accurate map of the country?

A. It appears to be like other maps that I have seen, and quite likely it is a correct map.

Q. 7. In your judgment, in a general way?

A. Of course, I have no judgment in regard to it, only from the maps that I have seen—other maps.

Q. 8. Is that practically along the line of the Southern Pacific Railroad from Los Angeles to Yuma?

A. Yes.

Q. 9. You know the way by San Gorgonio, Dos Palmos and Indio and the great Salt Desert to Yuma City?

A. The Southern Pacific travels through those points, I believe, in the night. I never was through there in the daytime, to my recollection.

Q. 10. Have you heard read by me, as the document was offered in evidence, the extracts from the report of Gen. Dodge, chief engineer of the Texas & Pacific Railroad, as to a route from Yuma by the way of San Gorgonio Pass and the San Jacinto Pass? Did you hear that read? A. Yes.

Q. 11. Now, in a general way, I will ask you, as a Californian somewhat familiar with the country, whether in your judgment the blue pencil line marked from Yuma by way of San Gorgonio, thence southwesterly and southerly to San Diego, does not represent in a general way

the line indicated in the extract from the report of Gen. Dodge to which I have alluded?

A. To the best of my judgment, based upon what I know about the geography of the state in that part of the country, the blue line through a part of the distance seems to be along the general course referred to in the report mentioned. I think that the line referred to by Gen. Dodge goes as far north as you have indicated on this map with the blue line.

Q. 12. And you refer, when you say north, to the San Gorgonio Pass? A. San Gorgonio Pass.

Q. 13. And thence to San Diego about as indicated by the blue line? A. I should think likely.

Q. 14. What part of the blue line would you say did not conform in a general way to Gen. Dodge's line?

A. Well, I wouldn't say that any part of it did conform in a general way, but I refer to some of the points that I have known of, such as San Gorgonio Pass, the northernmost pass reached by your blue line, which appears to be correct. The other part of the line I do not know much about.

Q. 15. But as far as you do know, wouldn't you say in a general way that it was substantially correct?

A. Well, I would suppose that it was.

Mr. PAYSON.—I offer this map in evidence.

(The map referred to is marked "Exhibit A.")

The signing and the further attestation by Mr. Call of this deposition is hereby waived.

Conclusion of testimony.

EVERETT J. ESSELSTYN,
Notary Public N. Y. Co.

BY-LAWS.

Section 1.

The officers of the company to be elected by the board of directors, shall consist of a president, vice-president, treasurer, and secretary. The president shall ex-officio be a member of all standing committees.

Section II.

An executive committee shall be elected by the board of directors at its first meeting, consisting of six members besides the president, who shall continue in office until the annual stated meeting of the directors in May, 1872, and to said committee shall be confided all the powers of the board of directors to provide for the consolidation of connecting roads; the construction and equipment of the road; the finances, engineering and all other duties needful to be exercised for the protection and welfare of the company.

Section III.

The general office of the company shall be in the city of New York. Stated meetings of the board of directors shall be held at said office on the third Monday of October, May, and July, in each year, and special meetings shall be called whenever the president or a majority of the executive committee may direct, by notice of fifteen days, published in a daily paper of New York, Philadelphia and Washington. Nine directors shall constitute a quorum. In case of a vacancy in the board of directors from any cause, such vacancy may be filled by the board

at any stated meeting subsequent to the vacancy, and until the next annual meeting of the stockholders; and any vacancy in any standing committee may be filled by a director, selected by a majority of the committee in which the vacancy occurs, until the next subsequent stated meeting of the board of directors.

In case the office of president shall become vacant the vice-president shall act as president until the next stated meeting of the board of directors, and until a new president is elected; and a vacancy in any other office of this company not herein provided for may be filled by the appointment of the executive committee until the next stated meeting of the board of directors.

Section IV.

The annual meeting of the stockholders shall be held at the office of the company in the city of New York at 12 o'clock at noon on the third Monday of May in each year.

Section V.

The Treasurer.

The treasurer shall give bonds, with one or more sureties, in the sum of not less than fifty thousand dollars for the faithful performance of his duties; he shall keep a regular set of books, containing the accounts of the company, showing the disposition of all funds that may pass through his hands, and keep his accounts as treasurer in such banks as the executive committee may from time to time designate. He shall, as early as practicable in May of each year, present to the president a complete statement of his accounts for the year and at such

other times as the president and executive committee may direct.

He shall also attend to such other duties connected with the finances of the company as may be required by the president or board of directors. His books and the monthly trial balance shall at all times be open for the inspection of the president or any member of the board.

All checks shall be signed by the treasurer; and all bills before being paid by him shall be examined and approved by the auditor, whom the executive committee may appoint, whose approval shall be endorsed thereon.

The treasurer shall have authority to appoint, subject to the approval of the president, such bookkeepers and clerks as may be required in his department, for the faithful performance of whose duties the treasurer shall be responsible to the company.

All bonds, mortgages, and other securities of the company shall be in the custody of the treasurer.

The Secretary.

The secretary shall keep a regular record of the proceedings of the board, and attend to the meetings of all standing or special committees when required, and keep a record of their proceedings.

He shall cancel all old certificates at the time of transfer, and register all stock issued and sign the same.

He shall attend to the giving of all the requisite notices of all meetings of every kind, and attend to such other duties as the president and executive committee may require.

TRANSCRIPT OF RECORD

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1907

No. 490

SOUTHERN PACIFIC RAILROAD COMPANY et al.,

Appellants,

vs.

THE UNITED STATES OF AMERICA,

Appellee.

VOL. IV.

(Pages 1477 to 2354, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

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VOL. IV.

(Pages 1477 to 1854, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Filmer Brothers Co. Print, 424 Sansome St., S. F.

Section VI.

During the present year and until the third Monday of May, 1872, the executive committee shall have power to add to or amend these laws, and to make such rules and regulations and appoint such counsel, attorneys, clerks or assistants as may be necessary, reporting the same for approval at each stated meeting of the board of directors, which, if not sanctioned by the board, shall be no longer binding.

Section VII.

Every director shall at all times have free access to every book and record of the company.

Section VIII.

Certificates of stock shall be issued to the stockholders, and transfers of them made when required; said certificates to be signed by the president (or by the vice-president) after they shall have been signed by the treasurer and authenticated by the seal of the company, and countersigned by the secretary as register, and when transfers are made the certificates shall be signed by the transfer clerk also.

Any person or persons claiming a certificate or evidence of stock to be issued in lieu of one lost or destroyed shall advertise the same in one or more newspapers in the city of New York twice a week for four weeks, giving the number and date of the certificate lost and the number of shares it represents. The party shall then furnish the board of directors with the affidavit or affirmation describing the certificate and its loss, accompanied by a copy of the advertisement, and also a bond

of indemnity with satisfactory personal security in at least double the amount of the certificate against any damage that may arise from the issuing of a new certificate; whereupon the board may direct the president and treasurer, one month after the date of the appearance of the last advertisement, to issue a new certificate of the same tenor with the one alleged to be lost or destroyed, therein specifying that it is in lieu thereof.

Section VIII amended meeting of executive committee, July 21, 1871, to read as follows: "Certificates of stock shall be issued to stockholders, and transfers of them made when required, said certificates to be signed by the president (or by the vice-president) after they shall have been signed by the secretary, and authenticated by the seal of the company, and when transfers are made, the certificates shall be countersigned by the transfer clerk, also as register."

Section IX.

The president or executive committee may call a general meeting of the stockholders at any time upon giving due notice; and the president shall, upon request in writing signed by the stockholders having a majority of the stock, call a general meeting of the stockholders.

[Endorsed]: Copy of by-laws Texas and Pacific Ry. Co., adopted at meeting of directors, May 24, 1871. C.

(Copy)

Office of the Chief Engineer,

Marshall, Texas, March 12, 1873.

Hon. Thomas A. Scott, President.

Dear Sir: I have the honor to submit a preliminary report upon the surveys on the California Division between San Diego and Colorado river, with a view of determining the route for adoption over that division.

The full report of all the surveys, with maps, profiles, etc., will be made up by Mr. Evans hereafter, but from data forwarded to me by him I am able to place before the board sufficient information for them to determine upon the general route from San Diego east.

The lines examined are as follows:

The direct line from San Diego to Ft. Yuma, known as the Otay Valley line, 203.11-100 miles long.

The San Gorgonio Pass lines, numbered 1 to 4, marked main line and A, B, C, D, on maps.

No. 1, main line, 313 miles long.

No. 2, the coast line, via Temecula creek to the main line, thence by main line to the pass 308.73 miles.

No. 3, the coast line to Temecula; thence the main line to Laguna; thence up the San Jacinto river and San Bernardino, 302 miles.

No. 4, the coast line; thence Temecula creek; thence line "D" direct to San Gorgonio Pass, 270 miles.

Warner's Pass line was not examined, our reconnoisance of it showing that it was impracticable as compared with other lines. The prominent features of each line are, first:

Direct line crosses a barren, uninviting country, hanging to steep and perpendicular slopes, stubborn to overcome and crossing valleys and ravines hundreds of feet high, passing the summit of the Sierra Nevadas at Walker's Summit; thence down Carissa Canyon to the desert, and thence to the Colorado at Fort Yuma. As an evidence of the character of the Carissa Canyon on the direct line, 7½ miles of that work is estimated to cost $240,000 per mile.

The Carissa Canyon is reported as very heavy work, the crossing of the streams and ravines requiring nearly 7,000,000 feet of timber and 600 feet Howe Truss bridging which must be built, as earth excavation cannot be found to fill the chasms. It also has eleven tunnels in eleven miles.

It has 57.18-100 miles from 80 to 116 ft. maximum grade and 11.61-100 miles of 116 ft. grade.

The ascent and descent to this line is 9,032 feet. After reaching the desert, lines cross the sand hills composed of shifting sand, often changing miles in a single season. It is considered that if we take this route we will have to avoid these hills, either by the south, which would take us into Mexico, or by the north, which would increase the distance some 18 miles. The distance upon the line as surveyed is 302.11-100 miles. Locally, this is the line that is most desired by the people of San Diego. It is the shortest line on the surface and would have the least mileage to operate. It strikes the bay of San Diego direct from the east, and would be the shortest line across the continent; but equated and reduced

to level grade and compared with San Gorgonio Pass lines it is the longest line from Fort Yuma to San Diego. The estimates upon it have been made as closely as practicable, considering the nature of the country. It is impossible upon such grade to cover all contingencies, but estimates have been made as grades show on profile.

Mr. Evans thinks that his estimate covers the cost of the line. Upon the location of this line it is my opinion if we are forced to keep clear of the sand hills the distance will be increased to 220 miles.

In competition with this line we have the lines known as the San Gorgonio Pass lines, two of which are distinct lines to San Gorgonio Pass; the others being parts of each of those lines. They are known as the main line and coast line. From San Gorgonio Pass to Fort Yuma all are a common line.

No. 1. The main line commences at San Diego, follows a short distance up the San Diego river, thence across the drainage of the country to Temecula creek, thence by Temecula and La Laguna to the Rio De Santa Ana, and up that stream to the San Bernardino Valley; thence to San Gorgonio Pass. This is the longest of all the San Gorgonio Pass lines, and has the greatest ascent and descent obtaining it in crossing the drainage from San Diego to Temecula, and will not, as a whole, come into comparison with some of the other lines. That portion of it from Temecula to the Santa Ana river, and thence by San Bernardino and San Gorgonio Pass, including a connection with Los Angeles, gives us the best connection north. This line is 313 miles long.

No. 4. The next line known as the coast line, and numbered 4, follows the coast from San Diego to the mouth of Temecula creek; thence up Temecula creek to Temecula; thence by line "D" direct to San Gorgonio Pass. This line is the shortest of the San Gorgonio Pass lines, and, as I calculate, the cost is the cheapest, though Mr. Evans makes the construction of it proper cost a little more than line 3.

This line is the proper line to adopt from San Diego to Temecula, provided the San Gorgonio Pass route is taken. From Temecula to the San Gorgonio Pass we have examined 4 lines and the examination reduces us to the choice of two.

This direct coast line has an elevation and depression of 8,133 feet; has 28.44-100 miles maximum grade 80 to 105 feet. It is least in curvature, and in a solely engineering point of view is the best of all the lines examined. When equated to a level grade it is 50 miles shorter than Otay Valley direct line.

No. 3 line is the same as the coast line to Temecula; thence runs by La Laguna; thence by San Jacinto river by line "B" to Riverside and San Bernardino; thence San Gorgonio Pass 302.22-100 miles.

The great difficulty of overcoming the country between La Laguna and the San Jacinto and up that river throws it out of the comparison. It is mentioned here for the

purpose of showing that we have thoroughly examined that country.

Line No. 2 is the same as the coast line to Temecula; thence the same as the main line to San Gorgonio Pass, passing the La Laguna to the Rio de Santa Ana, through San Bernardino to the pass. By examining the tables of cost, grades and distances, you will see that the decision upon the lines lies between this line and line "D," and the direct line by the Otay Valley.

If we aim for a connection with Los Angeles this line will give it to us better than line "D." If we regard Los Angeles and Temecula as fixed points the distances would compare as follows:

Temecula to the pass line "D"	40 miles
Los Angeles to San Bernardino	54 miles
San Bernardino to pass	18 miles
Total	112 miles

This is with a view of taking the produce of Los Angeles to San Diego, and it would run from Los Angeles to San Bernardino, then to San Gorgonio Pass, thence down line "D" to San Diego.

From Temecula to Los Angeles, via main line,	74 m.
Temecula to Temecula Pass	44 m.
Total	118

Making it six miles longer. To overcome this six miles we make the elevation to San Gorgonio Pass on this line but once, while on line "D" it is made twice; it would have to be done on both lines, provided the intersections were made at the summit instead of at Temecula. I submit tables of grades and of the cost of the lines as obtained from the estimates of Mr. Evans.

Description of Line.	Level miles	10 to 20 per mi	
		Fact.	
Otay Valley Line	44.39	35.29	12.
Gorgonio Pass Lines			
(1) Via the Interior, Viz San Diego River Crossing, Drainage Temecula, Temescal, &c			
(2) Via the Coast to Temecula, and thence same line (1)			
(3) Same as above to Laguna, thence up San Jacinto River to Riverside			
(4) Direct Line Via Coast to Temecula and direct to Pass	41.02	63.26	43.

TABLE OF GRADES.

...on of Line.	Level Miles	10 to 20 ft per mile. Asct.	10 to 20 ft per mile. Dest.	20 to 40 ft. per mile. Asct.	20 to 40 ft. per mile. Dest.	40 to 60 ft. per mile. Asct.	40 to 60 ft. per mile. Dest.	60 to 80 ft. per mile. Asct.	60 to 80 ft. per mile. Dest.	80 to 105 ft. per mile. Asct.	80 to 105 ft. per mile. Dest.	maximum 116. Asct	maximum 116. Dest.	Total Asct. in feet.	Total Desct. in feet.	Total Miles.
...e	44.39	35.29	12.39	14.21	8.28	9.67	2.02	6.36	13.32	16.86	28.64	11.68		4580.8	4452.4	203 11/100
Pass Lines																
...erior, Viz San Diego River.																
Drainage Temecula.																
...&c														5926.49	5802.19	313 95/100
...t to Temecula, and														4778.65	4674.05	308 73/100
...ne Line (1)																
...bove to Laguna, thence up														4724.8	4664.0	302 22/100
...to River to Riverside																
Via Coast to Temecula																
...t to Pass	41.02	63.26	43.65	32.27	20.30	10.20	13.85	7.73	9.62	13.79	14.65			4138.7	3995.9	270 34/100

No. of Sections	Description of Line	EARTH EXCAVATION	SOLID ROCK	LOOSE ROCK	TUNNELING	1ST CLASS MASONRY	2ND CLASS MASONRY	TRUSS BRIDGING	PILING
		Cubic Yards	Cubic Yards	Cubic Yards	Cubic Yards	Cubic Yards	Cubic Yards	Lineal feet	Lineal feet
	OTAY VALLEY LINE								
	From Depot Grounds San Diego to Crossing of Colorado River at Yuma								
1.	From Depot Grounds to Sta. 908+70	541.464	53.000	53.000	17.500		525		40.284
2.	" 908+70 to 4300 in Carisso Canon	2970.736	2.127.903	943.820	116.741	6,156	21,830	600	
3.	" Sta. 4300 in C. Canon to Sta. 5300 on Desert.	1,339.850		96.073		,692	5,092		
4.	" " 5300 to Sta. 9302 at Fort Yuma	1.094.215					,062		8.376
	- 4 -								
	COAST LINE								
1.	From depot grounds San Diego to head Temecula Canon	1.812.195	165689		8,122	2.900	2,932	2,250	77.714
2.	" head of Temecula Canon to San Gorgonio Pass.	839. 381	191.939	95.968	6,498	2,724	2,574	350	
3.	" San Gorgonio Pass to Ft Yuma	880,598	21,000	51,000			1,320		53. 650
	- 1 -								
	MAIN LINE								
1.	From Depot grounds at San Diego to Sta. 600 near Old S.D. diverging point of Shore Line	26,112							504
2.	From Sta 600 to the San Luis Rey Valley	1154.187	201,354	210,558	14.040		3,000		4.664
3.	" Valley of St. Luis Rey to Earles Ranch Temecula plains.	396,580	221,139	110,568	2,160		1,922		
4.	" Earles Ranch to Laguna div'g pt. of San Valley line.	83,099							728
5.	" Laguna to Gorgonio Pass via Temescal Cr. & Riverside	420,000		95.665		Rip	345		2,400
6.	" Gorgonio Pass to Fort Yuma.	880, 598	21,000	51,000		Rap 4,800	1,320		53, 650
	- 2 -								
	Via the coast to Temecula and thence Same as Line 1								
	- 3 -								
	Same as above to the Laguna thence up San Jacinto river to Riverside								

ESTIMATES

ER IN TLE	SLOPE WALL	WROUGHT IRON	CAST IRON	SUPERSTRUCTURE IRON TIES TRACK laying & telegraph	No. OF MILES	TOTAL COST CONSTRUCTION	COST PER MILE	MACHINERY ROLLING STOCK &c	BUILDINGS SHOPS AND WATER SUPPLIES	RIGHT OF WAY GENERAL EXPENSES & CHARTER PRIVILEGES.	ENGINEERING CONTINGENCIES &c
B. M.	Cubic Yards	Pounds.	Pounds	$13000 per mile	------	----------	----------	$4000 per mile.	$1500 per mile	$500 PER MILE	$1000 per mile
9.574		28,070	19,746	$ 348,400.00	26 8/10	$ 1,023,899.15	41,349.97	107,200.00	40,200.00	13,400.00	26,800.00
5.967		111,892	154,012	1,060,410.00	81 87/100	9,280,837.30	113,789.82	326,280.00	122,355.00	40,785.00	81,570.00
2,228		18,106	22,722	246,220.00	18 94/100	844,134.76	44,568.88	75,760.00	28,410.00	9,470.00	18,940.00
5,676		10,888	5,098	985,400.00	75 8/10	1,292,835.75	17,056.00	303,200.00	113,700.00	37,900.00	75,800.00
				$ 2,640,430.00	203 11/100	$12,441,706.96	$ 61,256.00	$812,440.00	$304,665.00	$101,555.00	$203,110.00
6,908	15,000	74,749	46,434	872,040.00	67 68/100	2,249,872.52	33,540.00	268,320.00	100,620.00	33,540,00	67,080.00
4.000		24,623	17,660	519,740.00	39 98/100	1,443,178.65	36,098.00	159,920.00	59,970.00	19,990,00	39,980.00
8,078	4,800	20,810	9,845	2,122,640.00	163 28/100	2,604,821.56	15,953.00	653,120.00	244,920.00	81,640,00	163,280.00
				$ 3,514,420.00	270 34/100	$6,297,872.73	$ 23,296.00	$1,081,360.00	$405,510.00	$135,170.00	$270,340.00
2,750		,500	264	34,320.00	2 64/100	43,614.22	16,520.00	10,560.00	3,960.00	1,320.00	2,640.00
5,529		26,449	30,170	659,880.00	50 76/100	1,883,745.45	37,110.00	203,040.00	76,140.00	25,380.00	50,760.00
7,594	15,000	14,672	15,923	297,700.00	22 9/10	1,146,780.74	50,077.00	91,600.00	34,350.00	11,450.00	22,900.00
4,618		1,870	720	156,910.00	12 3/100	183,540.02	15,206.00	48,280.00	18,105.00	6,035.00	12,070.00
2,640		12,542	8,092	809,900.00	62 3/10	1,067,914.96	17,141.00	249,200.00	93,450.00	31,150.00	62,300.00
8,078		20,810	9,845	2,122,640.00	163 28/100	2,604,821.56	15,953.00	653,120.00	244,920.00	81,640.00	163,280.00
				$ 4,081,350.00	313 95/100	$6,930,416.95	$ 22,075.00	$1,255,800.00	$470,925.00	$156,975.00	$313,950.00
					308 73/100	$6,050,069.50	$ 19,596.00	$1,235,000.00	$463,125.00	$154,375.00	$308,750.00
					302 22/100	$6,438,769.72	$ 21,305.00	$1,208,880.00	$453,330.00	$151,110.00	$302,220.00

	Superstructure Iron Ties Track laying & telegraph	No. of Miles	Total Cost Construction	Cost per Mile	Machinery Rolling Stock &c	Buildings Shops and Water Supplies	Right of Way General Expenses & Charter Privileges.	Engineering Contingencies &c	Total Cost per Mile	Total Cost
s	$3000 per mile	------	----------	----------	$4000 per mile.	$1500 per mile	$500 per mile	$1000 per mile	----------	----------
46	$ 348,400.00	26 8/10	$ 1,023,899.15	41,349.97	107,200.00	40,200.00	13,400.00	26,800.00	48,349.97	1,211,499.15
12	1,060,410.00	81 51/100	9,280,827.30	113,789.82	326,280.00	122,355.00	40,785.00	81,570.00	120,789.82	9,851,827.30
22	246,220.00	18 22/100	844,134.76	44,568.88	75,760.00	28,410.00	9,470.00	18,940.00	51,568.88	976,714.76
98	985,400.00	75 8/10	1,292835.75	17,056.00	303,200.00	113,700.00	37,900.00	75,800.00	24,056.00	1,823,435.75
	$ 2,640,430.00	203 11/100	$ 12,441,706.96	$ 61,256.00	$ 812,440.00	$ 304,665.00	$ 101,555.00	$ 203,110.00	$ 68,256.00	$ 13,863,476.96
34	872,040.00	67 28/100	2,219,872.52	33,540.00	268,820.00	100,620.00	33,540,00	67,080.00	40,540.00	2,719,432.52
60	519,740.00	39 88/100	1,443,178.65	36,098.00	159,920.00	59,970.00	19,990,00	39,980.00	43,098.00	1,723,038.65
45	2,122,640.00	163 28/100	2,604,821.56	15,953.00	653,120.00	244,920.00	81,640,00	163,280.00	22,953.00	3,747,781.56
	$ 3,514,420.00	270 84/100	$ 6,297,872.73	$ 23,296.00	$ 1,081,360.00	$ 405,510.00	$ 135,170,00	$ 270,340.00	$ 30,296.00	$ 8,190,252.73
64	34,320.00	2 64/100	43,614.22	16,520.00	10,560.00	3,960.00	1,320.00	2,640.00	23,520.00	62,094.22
76	659,880.00	50 76/100	1,883,745.45	37,110.00	203,040.00	76,140.00	25,380.00	50,760.00	44,110.00	2,239,065.45
23	297,700.00	22 9/10	1,146,780.74	50,077.00	91,600.00	34,350.00	11,450.00	22,900.00	57,077.00	1,307,080.74
20	156,910.00	12 7/100	183,540.02	15,206.00	48,280.00	18,105.00	6,035.00	12,070.00	22,206.00	268,030.02
92	809,900.00	62 3/10	1,067,914.96	17,141.00	249,200.00	93,450.00	31,150.00	62,300.00	24,141.00	1,504,014.96
45	2,122,640.00	168 28/100	2,604,821.56	15,953.00	653,120.00	244,920.00	81,640.00	163,280.00	22,953.00	3,747,781.56
	$ 4,081,350.00	313 95/100	$ 6,930,416.95	$ 22,075.00	$ 1,255,800.00	$ 470,925.00	$ 156,975.00	$ 313,950.00	$ 29,075.00	$ 9,128,066.95
		308 79/100	$ 6,050,069.50	$ 19,596.00	$ 1,235,000.00	$ 463,125.00	$ 154,375.00	$ 308,750,00	$ 26,596.00	$ 8,211,319.50
		302 22/100	$ 6,438,769.72	$ 21,305.00	$ 1,208,880.00	$ 453,330.00	$ 151,110.00	$ 302,220.00	$ 28,305.00	$ 8,554,309,72

These estimates are made with cuts of 16 feet base, and banks of 12 feet upon the direct line cuts go into fills sufficient in depth to make the posts of the trestling crossing the ravines not to exceed 100 feet in length.

It is difficult to classify the work on the direct line or to determine what quantities will have to be moved—and especially is this the case in Carissa canyon, the slopes of which are nearly perpendicular; five-tenths of the tunneling also occurs in this canyon within a distance of ten miles.

Upon the other lines the country is such that the estimates can be made very closely, and I have no doubt that they are as nearly correct as estimates upon preliminary lines are generally made. Mr. Evans thinks that upon these lines he has given a full estimate of their cost. The prices that have been affixed are for earth excavations, 28 to 33 cents per cubic yard; solid rock, $1.75 to $2.25; loose rock, $1.00; tunneling, $12 to $14 per cubic yard; first-class masonry, $20; second-class masonry, $10 to 12 dollars; timber for trestles, $50 per M. B. M.; piling, 50 cents per lineal foot; wrought iron, 10c per pound; cast iron, 8c per pound; truss bridging, 38c per running foot; superstructure, including ties, iron, track laying, etc., $13,000 per mile.

In examining this data it is evident that we are brought down to the selection of one of three lines, viz., the direct line through Otay Valley or coast line, thence via San Bernardino or by line "D." A comparison of these lines is made by Mr. Evans as follows: You will

observe that he estimates only the cost of construction of the line, while my estimates which precede this give the lines completed ready for business.

Report of J. A. Evans.

Recapitulation of the Cost of the Several Lines, from San Diego, Cal., to Fort Yuma.

Description of Line.	Distance Miles.	Elevation Feet.	Depression Feet.	Total Cost.	Cost per mile.
Otay Valley Line.....	203.11	4580.8	4452.1	$12,441,706.97	$61,256.00
Gorgonio Pass Lines:					
(1) Via the Interior, viz., San Diego, R. Cross'g drainage Temecula, Temescal, etc.....	313.95	5926.49	5802.11	6,930,416.95	22,075.00
(2) Via the coast to Temecula, and thence same as line 1.....	308.73	4778.65	4674.05	6,050,069.50	19,596.00
(3) Same as the above to the Laguana, thence up San Jacinto River to Riverside	302.22	4724.8	4664.0	6,438,769.72	21,305.00
(4) Direct Line via Coast to Temecula, and direct to Pass.	270.34	4138.7	3995.9	3,297,872.73	23,296.00

The maximum grade on the Otay Valley line is 116′ per mile. On several lines to the Gorgonio Pass the maximum is 105.6 per mile. If we compare the several lines leading to San Gorgonio we can throw out line

(1) with its distance of 313.95 miles, because of the large amount of elevation and depression on it, and its additional cost chiefly covered by its additional length.

We can also throw out line (3) via the San Jacinto Valley, which although saving 6.51 miles in distance over line (2), is, in consequence of its grades, practically the longest line, and then it costs $388,700 more.

The comparison will then be between lines (2) and (4), one of which is 308.93 miles, costing $19,596.00 per mile, and the other 270.34 miles, costing $23,296.00 per mile.

By equating grades on both lines and reducing them to straight lines of level grades the result is (independent of curvature), for the direct line to the pass (No. 4) 872.82 miles; line via Temescal and Riverside (No. 2) 934.41 miles; or 7 per cent nearly in favor of the shortest line, which is obtained at an additional cost of $247,803.23.

The line (No. 2) has some advantages over the short line in the fact that it passes up the Santa Ana river (a country susceptible of development) and passes through or near the San Bernardino Valley, and commercially is the best line. As this is not an engineering question, I barely refer to it. Comparing our shortest line with the Otay Valley line, we find:

203.11 of Otay Valley line, costing.....	$12,441,706.97
270.34 direct line to San Gorgonio (4).....	6,297,872.73
Bal. against Otay Valley Line.....	$ 6,143,834.24

By equating grades and curvatures we find the equivalent length of straight level line to be, on Otay Valley

line, 929 miles; on San Gorgonio Pass line, 879 miles, or 5 7-10 per cent in favor of Gorgonio Pass line; this is caused in a measure by the additional elevation and deflection of the Otay Valley line, but more by the excessive curvature, for on the Gorgonia Pass line the total deflection is 6,354 degrees, whereas on the Otay Valley line we have 17,864 degrees.

With reference to the estimates of the several lines I would say that the northern lines, cheap as they appear to be, can with the mode of construction adopted in estimating of all the lines (including Otay Valley), viz., the trestling of heavy fills, be brought within the figures.

On the Otay Valley line, in consequence of the difficulty of classifying the material, it is questionable if it can be done. The method pursued has been this—all excavations from where we strike the rock country to the desert has been called 25 per cent earth, 25 per cent loose rock, and 50 per cent solid rock, which may not be very far from correct, but I have assumed that all borrowed material would be earth. I question if we can get the large amount required. With reference to distance we can save on the Gorgonio Pass line two miles, making it 268 miles instead of 270, and likewise 100′ in the elevation of the summit—both of which were lost by running to a connection.

The Otay Valley line, if we were forced to build, would be increased in distance 18 miles to avoid the sand hills of the desert.

If, as is more than likely, we find our best crossing of the Colorado some 25 miles above Fort Yuma, additional

distance would be saved there by taking the northern line.

You will see that $13,000 per mile has been added to all lines for superstructure and laying track. Nothing has been added for buildings, superintendence or engineering. I think it a matter for congratulation that we can get away from here so easily.

(Signed) JAS. A. EVANS,
Div. Eng.

When we reduce the two general routes, viz., the direct lines or San Gorgonio Pass line to a level grade, giving to each equal capacity for business, the San Gorgonio Pass line is the shortest, has less curvature and less ascent and descent. The distance by the San Gorgonio Pass line can be materially decreased by crossing the Colorado river 25 miles north of Fort Yuma, crossing the Gila at the foot of the mountains some distance from its mouth. By this line we will also avoid the sand hills that are so objectionable upon the direct line. The two general routes compare as follows: Difference in cost favor of San Gorgonio, the coast line, $5,673,224.23, per mile, $37,960—898.3 feet in ascent and descent saves 28 74-100 miles of maximum grade.

In August, when in San Diego, I examined with Mr. Evans a portion of the direct line. As I then stated to a portion of the board, my personal examination of the country determined me to seek a passage through the mountains further north. I was convinced that if we were forced to build the direct line, the obstacles to over-

come were far greater than a mere survey would determine. I, however, instructed Mr. Evans to exhaust the question of the practicability of the direct line, and give us the lowest estimate of the cost of the best line to be found in that direction, and also to give the country a thorough examination from San Gorgonio Pass to the Jacumba, and also to examine the country south in Mexico and determine if there was anything there.

A reconnoisance of the country south of the boundary determined that there was nothing there as feasible as north of it; that was within our reach. The face of the country indicated to me that the lines toward the San Gorgonio Pass would show a much better route than had ever been found by surveys heretofore made in that direction, and the results of Mr. Evans' sureys bear out that opinion.

A comparison of the two lines that come into competition in the San Gorgonia Pass lines, numbered 2 and 4, are as follows: Distance in favor of the direct line "D," 38.39 miles; total cost, $2,166.77 in favor of line "D." Line 2, main line of the San Bernardino line, costs $4,700 per mile less than line "D," although its total cost is more.

If we make our selection of the two lines running through San Gorgonio Pass upon a purely engineering basis, the coast line and line "D" are preferable, but if we consider them in relation to a connection at Los Angeles and San Francisco, it is a question if the coast line to Temecula and the main line, via Temecula and San Bernardino, is not the best. If we go to San Francisco we save by

either of these lines between Fort Yuma and San Francisco nearly 100 miles in distance over the direct line Fort Yuma to San Diego. It is said the conformation of the country is such that we are obliged to seek a connection with San Francisco through Los Angeles or the valley near it; that the direct line from San Gorgonio Pass and through Cajon Pass, thence to the Tehachapi, thence by the route of the Southern Pacific Road, is impracticable. This is the opinion given me by the engineers upon the Southern Pacific Road who have examined the Cajon Pass. I have never examined it, but it is by far the shortest route to San Francisco.

This Cajon Pass route, if adopted, would necessitate, if we intend to control the business of Los Angeles and Santa Barbara counties, an independent line to Los Angeles.

If we take the longer line by Los Angeles to San Francisco, we will command the coast country by the main line.

I am also of opinion that if the San Gorgonio Pass line is adopted we can better control the railroad project of Southern California than we could if we built the direct Otay Valley line. If we build the north line, no other line will be built to Fort Yuma or Los Angeles from San Francisco. If we build the direct line the Southern Pacific or the extension of the Atlantic and Pacific will be very apt to seek a connection with us at Fort Yuma or such point as we may cross the Colorado instead of at San Diego.

I am also confident that either of the San Gorgonio Pass lines will control for all time the business of Southern California. If the company have in view the control of the Southern Pacific Railroad of California, there is no question but that we should take one of the two San Gorgonio Pass lines, probably the direct line, as the line from San Gorgonio to a connection with the Southern Pacific at Los Angeles would accomplish all that a longer line would do, and at the same time give us the shortest route across the continent.

Another point that strongly recommends to me the San Gorgonio Pass lines is the fact that by this line we can with a small expenditure of money comply with the law compelling us to build from San Diego east, whereas by the direct line, after the first 10 or 20 miles are built, we immediately encounter the heavy work of the Sierra Nevadas, which will run the cost of the road up to from $100,000 to $200,000 per mile, and we would have a road lying idle that could do no business until it reaches the desert.

While by the San Gorgonio Pass lines as soon as we build northeast twenty-five miles we will have a fair business from the back countries along the coast and from Los Angeles seeking San Diego as a harbor.

I would therefore recommend to the company that for the present they determine between the two general routes, the direct line and the San Gorgonio Pass line. If the San Gorgonio Pass line is determined, we can locate that line up the coast to Temecula and for the present the decision of the line between Temecula and San

Gorgonio Pass be postponed and hereafter decided as matters may develop in California.

The coast line from San Diego to the mouth of Temecula creek and up Temecula creek is common to either of the San Gorgonio Pass lines. The work on this portion of the road is light, and we can complete the amount that the law requires this year without any great expenditure.

I have instructed my engineers to commence location upon this line, awaiting the decision of the company, but with a full understanding that it is not under any circumstances to be considered the adopted line.

If the company does not desire to make known their determination in this matter for the present, I will locate it to Temecula and wait for further instruction. If no instructions are given me, I shall consider that my instructions to the engineers meet the approval of the board.

I enclose herewith tracing showing the San Gorgonio Pass lines; also a map showing all the lines.

I am,

Very respectfully,

(Signed) G. M. DODGE,
Chief Engr.

[Endorsed]: Copy. Report of Genl. Dodge, March 12, 1873. Upon the surveys from San Diego with a view of determining the route for adoption. Opened and filed Mar. 29, 1899. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GARRIT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY, Defendants.

No. 587.

Partial Report of Special Examiner in Chancery.

To the Honorable, the Judges of the Circuit Court of the United States in and for said District:

Pursuant to an order of reference made and entered in the above-entitled cause as of the 23d day of January, 1895, whereby it is ordered that the undersigned, as special examiner in chancery, shall take the evidence in the above-entitled cause and report the same to the Court, the said special examiner does now submit this his partial report, as follows:

That on the 8th day of February, 1895, the complainant appeared at the office of the clerk of the United

States Circuit Court, in the city of Los Angeles, California, by its solicitor, Joseph H. Call, Esquire, and the defendants by their solicitor, Joseph D. Redding, Esquire; and thereupon the complainant produced as a witness upon its behalf Charles A. Shaw, and introduced in evidence exhibits numbered Plaintiffs' Exhibits 1 to 13, inclusive. And thereupon the further taking of testimony was adjourned to be resumed upon further notice and consent of counsel.

That on the 18th day of October, 1895, the complainant appeared at the office of the clerk of the United States Circuit Court, in the city of Los Angeles, California, by its solicitor, Joseph H. Call, Esquire, and the defendants by their solicitor, William Singer, Jr., Esquire, and it was thereupon stipulated that defendants should have to and including October 19th, 1895, in which to complete the taking of their testimony. That on said 18th and 19th days of October, 1895, the defendants introduced in evidence exhibits numbered Defendants' Exhibits 9A and 9B; also, numbers 29 to 43, inclusive. And thereupon the further taking of testimony herein was adjourned to be resumed upon further notice and consent of counsel.

That the undersigned submits this partial report for the purpose of returning to the Court the exhibits introduced in evidence before him, in order that the clerk of said court may perform the conditions of the stipulation appearing at page 36 of said record and the provisions of said stipulation be carried into effect.

And the said record, accompanying this report, contains all of the evidence and exhibits introduced in said

cause by the respective parties, together with the stipulation entered into, before me as special examiner, to the date of this report; all of which, with the exhibits introduced, is herewith returned to the Court.

November 15, 1895.

LEO LONGLEY,
Special Examiner in Chancery.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GARRIT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 587.

Testimony.

Testimony taken before Leo Longley, special examiner in chancery, duly appointed by the Court, in the above-entitled cause. In pursuance of a notice duly made and served by the plaintiff upon the counsel for the defend-

ants, this examination was commenced at the office of the clerk of the above-entitled court, in the city of Los Angeles, on this 8th day of February, 1895, at the hour of ten o'clock in the forenoon. Present: Joseph H. Call, special assistant United States attorney; no appearance for defendants.

By reason of there being no appearance on behalf of the defendants, and by consent of counsel for the Government, this hearing is postponed to the same place, to be resumed at three o'clock P. M. of this day.

Hearing of the above-entitled cause resumed at the same place at two o'clock P. M., by the consent of the parties.

Present:

Joseph H. Call, Esq., Special Assistant United States Attorney, for the Plaintiff.

Joseph D. Redding, Esq., Solicitor and W. J. Trask, Esq., of Counsel, for the Defendants.

Mr. CALL.—In pursuance of an order of Court heretofore entered in this cause, I offer in evidence a certified copy of the articles of association and consolidation of the Southern Pacific Railroad Company with the Southern Pacific Branch Railroad Company, marked Exhibit 125 in the case of United States vs. Southern Pacific Railroad Company, numbered 68 on the docket of this court, and request that the same be now marked "Plaintiff's Exhibit No. 1."

Mr. REDDING.—The defendants object to the introduction of this evidence and exhibit as being incompetent, irrelevant, and immaterial. That the various articles of

consolidation entered into by and between the Southern Pacific Railroad Company, one of the defendants herein, and various other railroad companies, have been ratified and consented to by the United States Government by acts of Congress and by the officers of the Government, particularly the officers of the executive and interior department thereof; also by an act of Congress found in the Indian Appropriation Bill of 1894 (Statutes of 1893-94, page 335), and particularly by reference to and by virtue of that clause in the Indian Appropriation Act referred to which reads as follows: "That the right of way through the said Yuma Indian Reservation is hereby granted to the Southern Pacific Railroad Company for its line of railroad as at present constructed, of the same width, with the same rights and privileges, and subject to the limitations, restrictions, and conditions as were granted to the said company by the 23d section of the act approved March 3, 1871, entitled 'An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes'; provided, that said company shall, within ninety days from the passage of this act, file with the secretary of the interior a map of said right of way, together with said relinquishment by said company of its right of way through said reservation as shown by maps of definite location approved January 3, 1878." And furthermore, objected to on the ground that the State of California has, by acts of the legislature thereof, authorized and ratified the said various articles of consolidation and amalgamation, including the one herein sought to be introduced.

Mr. CALL.—In pursuance of the order of court above mentioned, I also offer in evidence a certified copy of a map filed by the Texas Pacific Railroad Company in the general landoffice on the second day of September, 1871, showing the location of said railroad through the State of California; together with a certified copy of a letter from the secretary of the interior to the commissioner of the general landoffice in reference thereto, dated September 2d, 1871; and together with an official communication from the president, chief engineer and secretary of said Texas Pacific Railroad Company, dated August 15th, 1871; said documents being marked Examiner's Exhibits numbers 46 and 47 in the case of United States vs. Southern Pacific Railroad Company, numbered 184 on the docket of this Court. And I now request that said exhibits, included under one certificate, be marked "Plaintiff's Exhibit No. 2."

Mr. REDDING.—The defendants object to the whole of this exhibit and each portion thereof, and to the map and to the letters constituting said exhibit, on the ground that the same are incompetent, irrelevant, and immaterial. That the portion of the exhibit which has been certified by the commissioner of the general landoffice as being an exemplification of the "map showing the general route of the Texas Pacific Railroad, through the State of California," is incompetent, irrelevant, and immaterial, in that it does not depict, show, designate, define, or illustrate any line or route whatsoever of the Texas Pacific Railroad Company between any points on the earth's surface or between those points named by the act of Congress of March

3, 1871; nor does it make either a designation of route, a definite location of route, or a general line of route between any points on the earth's surface or between any points named in said act of Congress, or along which or past which the Texas Pacific Railroad Company was entitled to locate its road. The defendants furthermore object to the introduction of said map on the ground that the map appears upon its face to have been manufactured without reference to the true topography or geography of the earth's surface, or without any reference thereto; the same is inaccurate and bears no relation whatever to the surface of the earth or to any points or localities thereon. Said map is a pretence, and is fictitious. The defendants furthermore object to the introduction of said evidence on the ground that under and by virtue of that portion of the Indian Appropriation Act which is found in the statutes of the United States of 1893 and '94, page 335, and which has been just quoted in the objection made by defendants to the introduction of the evidence just heretofore offered, the line of the route of the railroad of the defendant, the Southern Pacific Railroad Company, through and past the lands in controversy, has been ratified and accepted by the United States, the plaintiff in this action, and by the terms of said Indian Appropriation Act, and particularly that portion thereof found on page 835, the right of the Southern Pacific Railroad Company to the lands in controversy has been fully confirmed by the plaintiff in this action. Furthermore, objected to on the ground that the map offered is not the whole of the map

on file in the interior department, but only a portion thereof.

The same objections are made to the correspondence attached to the said map.

The defendants hereby give notice that they will move this Honorable Court to strike the evidence offered, namely, "Plaintiff's Exhibit 2," from the files of this Court, on the ground that the same is an impertinence and incumbers the record; and will bring on this motion for hearing as soon as the evidence in this case has been returned to the clerk. This motion will be based upon all of the papers and records in the case and upon this evidence last sought to be introduced.

Mr. CALL.—I offer in evidence a certified copy of an official map on file in the general landoffice, showing the line of route and withdrawal limits of the Texas Pacific Railroad Company, through the State of California; together with a copy of the letter from the commissioner of the general landoffice, dated September 27, 1871, to the register and receiver of the United States landoffice, at Los Angeles, California, directing lands along the line of said route to be withdrawn and reserved; together with the endorsements upon said exhibit, and now request that the same be marked "Plaintiff's Exhibit No. 3."

Mr. REDDING.—Mr. Call, will the words "Same objection" be allowed by the defendants to be used, and thus have the full force and effect of the last stated objection, as if the same had been reiterated in detail?

Mr. CALL.—That is satisfactory. And I understand that such is the practice in taking testimony in these cases, for both parties.

Mr. REDDING.—That will be agreeable to me. I make the same objection to the evidence last sought to be introduced and the same motion as just heretofore made.

CHARLES A. SHAW, a witness produced on behalf of the plaintiff, being first duly cautioned and solemnly sworn to speak the truth, the whole truth, and nothing but the truth, testified as follows:

Direct Examination.

(By Mr. CALL.)

Q. 1. What is your full name? A. Charles A. Shaw.

Q. 2. What is your occupation?

A. Clerk in the United States landoffice.

Q. 3. At Los Angeles, California?

A. Yes; at Los Angeles, California.

Q. 4. Please examine this plat and state whether you have compared that plat with the records of your office.

A. Yes. This plat of township 12 south, range 3 east, has been compared by myself with the official plat on file in this office.

Q. 5. Does that plat correctly represent and is it a true copy of the original in your office? A. Yes.

Q. 6. In the United States landoffice at Los Angeles, California.

A. Yes; it is a true copy of the official plat in said office.

Mr. CALL.—I offer this plat in evidence and request that the same be marked "Plaintiff's Exhibit No. 4."

Mr. REDDING.—Objected to as incompetent, irrelevant, and immaterial. Its purpose has not been shown.

Q. 7. (By Mr. CALL.) Please examine this plat and state whether that is also a true copy of the records of your office.

A. This is a true copy of township 14, south range 4 east, of the official plat on file in said office.

Mr. CALL.—I offer the plat mentioned in evidence and ask that the same be marked "Plaintiff's Exhibit No. 5."

Mr. REDDING.—Same objection.

Q. 8. (By Mr. CALL.) Please examine the plat which I now hand you and state whether that is a true copy of the records of your office.

A. This is a true copy of township 15 south, range one east, S. B. M., of the official plat on file in said office.

Mr. CALL.—I offer the plat in evidence, and ask that the same be marked "Plaintiff's Exhibit No. 6."

Mr. REDDING.—Same objection.

Q. 9. (By Mr. CALL.) Examine the plat which I now hand you and state whether this is a true copy of the records of your office of that township?

A. That is a true copy of township 16 south, range 1 west, S. B. M., of the official plat on file in said office.

Mr. CALL.—I offer the plat in evidence and request the same to be marked "Plaintiff's Exhibit No. 7."

Mr. REDDING.—Same objection.

Q. 10. (By Mr. CALL.) Please examine the plat which I now hand you and state whether that is a true copy of the records of your office of the township referred to.

A. This is a true copy of township 15 south, range 2 west, S. B. M., of the official plat on file in said office.

Mr. CALL.—I offer the plat referred to in evidence, and ask that the same be marked "Plaintiff's Exhibit No. 8."

Mr. REDDING.—Same objection.

Q. 11. (By Mr. CALL.) Did you carefully compare these several plats above mentioned with the records of your office?

A. I carefully compared all the maps in the minutest detail with the records of the office.

Q. 12. And you state that they are correct?

A. Yes, sir; and I state that they are correct.

Q. 13. Did you examine any other of the records of your office, especially the township plats in San Diego county in this State in order to ascertain what lands had been disposed of by the United States under patents to claimants under the Mexican and Spanish Governments?

Mr. REDDING.—Objected to as incompetent, irrelevant, and immaterial; calling for the verbal statement of the witness, the best evidence of which must be the records themselves.

A. I did.

Q. 14. (By Mr. CALL). Are you familiar with the records of the United States landoffice——

A. I am.

Q. 15 (Continuing.) At Los Angeles?

A. I am perfectly familiar.

Q. 16. Can you ascertain from an examination and comparison of the maps on file in that office what lands have been disposed of under Mexican and Spanish grants?

Mr. REDDING.—Same objection.

A. I can, because the official plat shows it—the official

survey shows it on each map as given by the United States surveyor general.

Q. 17. (By Mr. CALL.) Please state what township plats you examined, and what amount of land had been disposed of by the United States as Mexican and Spanish grants in each of the townships which you examined.

Mr. REDDING.—Objected to as incompetent, irrelevant, and immaterial; as hearsay; calling for the recollection of the witness, by which it is sought to have as evidence in this case a verbal report or recollection of the official records of the landoffice. That such testimony is not the best evidence and is incompetent. That the official plats speak for themselves. That the plaintiff has introduced a few of what purport to be official plats of certain townships, and is now seeking to have the verbal testimony of the clerk of the landoffice supply the absence of other plats. Such testimony is incompetent, immaterial, and irrelevant.

A. Well, here is the list.

Q. 18. (By Mr. CALL.) Have you prepared, and have you brought it with you, a written statement showing the amount of land disposed of in those townships for the purposes specified?

Mr. REDDING.—Same objection. Not the best evidence.

A. I have.

Q. 19. (By Mr. CALL). Please produce the same.

(Witness produces list.)

Q. 20. Have you carefully examined the tabulated statement referred to with the records of your office, so that you con testify accurately as to its correctness?

Mr. REDDING.—Same objection.

A. I have.

Mr. CALL.—I offer the exhibit or list in evidence, and request that the same be marked "Plaintiff's Exhibit"—

Q. 21. Before I offer it, just mark that "township and ranges."

Mr. REDDING.—I object to the witness making any change at this time on the tabulated statement, as being also hearsay, incompetent, and irrelevant, and calling for the recollection of the witness instead of referring to the records, official, of the office.

Mr. CALL.—I request the witness to plainly indicate upon the statement referred to the townships and ranges.

Mr. REDDING.—How is he going to do that in the absence of the official records?

Q. 22. (By Mr. CALL.) Does the statement referred to contain the correct description of the townships and ranges of San Bernardino base and meridian?

Mr. REDDING.—Same objection.

A. It does not contain a full description of the townships, for the reason that I neglected to mark on the top of the columns "township" and "range"—those two words. Otherwise it is all right.

Q. 23. (By Mr. CALL.) But the figures given upon the statement are the numbers of the townships and ranges, are they?

Mr. REDDING.—Same objection.

A. Yes.

(Witness indicates upon the statement as directed.)

Mr. CALL.—I offer the exhibit in evidence and request that the same be marked "Plaintiff's Exhibit No. 9."

Mr. REDDING.—Same objection. And defendants move to strike this exhibit from the records of this cause as being an impertinence to the record, and will call on said motion as in the manner and at the time that we have above specified with reference to the other exhibits.

Q. 24. (By Mr. CALL.) Referring to townships 11 south, range 1 west; 11 south, 2 west; 11 south, 3 west; 11 south, 4 west; 12 south, 1 west; 12 south, 2 west; 12 south, 3 west; 12 south, 4 west; 13 south, 1 west; 13 south, 2 west; 13 south, 3 west; 13 south, 4 west; 15 south, 1 west; 15 south, 2 west; 15 south, 3 west; 16 south, 1 west; 17 south, 1 west; 18 south, 1 west; 18 south, 2 west—state what is the aggregate amount of land disposed of by the United States, as shown by the plats of your office, to Mexican and Spanish grant claimants in those townships.

Mr. REDDING.—Defendants object to this question on the above grounds. And also object to the witness answering orally, he having submitted his own tabulated statement, unless it is the intention of counsel for the plaintiff to have the witness testify now differently from the contents of the tabulated statement.

A. The area included in private grants in the townships referred to amounts to 196,306.39 acres.

Q. 25. (By Mr. CALL.) Referring to townships 11 south, range 1 east; 12 south, 1 east; 13 south, 1 east; 14 south, 1 east; 15 south, 1 east; 16 south, 1 east; 17 south, 1 east; 18 south, 1 east—state what is the aggregate amount of lands in those townships disposed of by the

Government, as shown by the records of the United States landoffice at Los Angeles, to Mexican and Spanish grant claimants.

Mr. REDDING.—Same objection.

A. 66,145.47 acres.

Q. 26. (By Mr. CALL.) Referring to townships 10 south, 2 east; 10 south, 3 east; 11 south, 2 east; 11 south, 3 east; 12 south, 2 east; 12 south, 3 east; 13 south, 4 east; 14 south, 4 east; 15 south, 4 east—state what is the aggregate amount disposed of as aforesaid by the Government in those townships.

Mr. REDDING.—Same objection.

A. 92,390.64 acres.

Q. 27. (By Mr. CALL.) In the three aggregate quantities stated by you what amount has been disposed of as aforesaid in the even sections, and what in the odd sections?

Mr. REDDING.—Same objection.

A. I should think about half even and half odd.

Q. 28. (By Mr. CALL.) Did you compare the records of your office to ascertain that?

Mr. REDDING.—Same objection.

(No response.)

Q. 29. (By Mr. CALL.) State what you did in reference to examining the records of your office to ascertain what proportion was in even sections and what in the odd sections?

Mr. REDDING.—Same objection.

A. I made an examination of the private grants as they came in in the different townships, and in my judg-

ment it would be about one-half in the even sections and the other half in the odd sections. But as an absolute matter of fact, I could not hardly tell whether there would be more in one or of the other.

Q. 30. (By Mr. CALL.) Would it be substantially accurate to say that one-half is in the even and one-half in the odd sections?

Mr. REDDING.—Same objection.

A. I should think so.

Mr. CALL.—That is all.

Cross-Examination.

(By Mr. REDDING.)

Q. 31. Mr. Shaw, have you ever seen "Plaintiff's Exhibit No. 3" before.

A. I have not seen that one, but I have seen the one on file in the United States landoffice.

Q. 32. Now, do any of the plats offered as evidence in this case and marked, respectively, Plaintiff's Exhibits 4, 5, 6, 7, and 8, refer to townships which are south of the alleged line of location of the Texas Pacific Railroad Company, or south of the line marked upon "Plaintiff's Exhibit No. 3"?

A. No. They are all north of it.

Q. 33. They are all north of it, aren't they?

A. Yes, sir.

Q. 34. Why did you not produce official plats of the various other townships concerning which you have testified, Mr. Shaw, for introduction or offer in this case?

A. I was not requested to do so by Mr. Call.

Q. 35. What request did he make upon you?

A. He just asked me to bring a statement of the lands disposed of as Mexican grants in the townships referred to in that list marked "Plaintiff's Exhibit No. 9."

Q. 36. Then why did you happen to bring any township plats or copies of township plats?

A. I brought them upon request of Mr. Call.

Q. 37. Well, then, he asked you to bring some township plats and not others?

A. Yes, sir.

Q. 38. Do you know why he asked you to bring some township plats and bring a statement concerning the others instead of the others themselves?

A. No, sir; I do not.

Q. 39. Can you produce certified copies of the other township plats as well as those that you have already offered? A. Yes, sir.

Q. 40. There is no reason why this cannot be done, is there? A. No reason at all, sir.

Q. 41. Now, do you believe that your memory is as accurate concerning the condition of a township as the township itself, or would you state that the township itself would be the best evidence?

A. With reference to those figures with regard to the grants I think—I know that those figures in the list are correct, because I took them from the township myself.

Q. 42. Are you able to describe the location of those Spanish grants from memory, or are you not?

A. No, sir; I am not able to describe them from memory.

Q. 43. Do you know from memory where the lines of

these grants run on the township plats? Can you so describe and testify?

A. No, sir; I could not.

Q. 44. Now, have you written here in your own handwriting that the amount of private grants in township 11 south, range 1 west, is 447.92 acres. You say that you have taken that from the official plat? A. I have.

Q. 45. Is it possible that you might have made an error in that?

A. I think not. I think that that would be about correct.

Q. 46. Well, suppose that you had your own matters at stake, which would you prefer to rely upon—your figures that you copy yourself, or upon the original official plat?

A. Well, I copied those from the original official plat and I think that they are correct. Of course, if I have made a mistake I could not say.

Q. 47. You could not say but what you might have made a mistake?

A. I could not say but what I might have made a mistake; no, sir.

Q. 48. You would prefer, if you were called upon to be absolutely accurate, to rely upon the official plats themselves, would you not? A. Certainly.

Mr. REDDING.—That is all.

Mr. CALL.—That is all.

The taking of testimony on behalf of the plaintiff is concluded for to-day, to be resumed hereafter upon reasonable notice or agreement of counsel.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GARRIT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 587.

Testimony.

Testimony taken on behalf of the plaintiff before Leo Longley, special examiner, and stenographer, in the above-entitled cause, by consent of parties, at the office of the clerk of the United States Circuit Court, in the city of Los Angeles, California, this 13th day of April, 1895.

Present:

Joseph H. Call, Esq., Special Assistant United States Attorney, for the Plaintiff.

Joseph D. Redding, Esq., Solicitor and Counselor, for the Defendants.

Mr. CALL.—I offer in evidence a certified copy of a map from the general landoffice, showing the route and withdrawal limits for the Texas Pacific Railroad, from El Paso, Texas, to San Diego, on the bay of San Diego, California, together with a letter attached thereto, from the secretary of the interior to the commissioner of the general landoffice, dated September 2, 1871, and a letter, likewise attached, from the officers of the Texas-Pacific Railroad, dated August 15, 1871, certifying to said map, and requesting a withdrawal of lands, and so forth; and ask that the same be marked "Plaintiff's Exhibit No. 10."

Mr. REDDING.—Mr. Call, will it be agreeable to you if, in entering my objection to these offers and exhibits and letters, I state that I make the same objection and motion as I did to "Plaintiff's Exhibit No. 2," heretofore offered, and that in doing so it will be the same as if I had repeated that objection and motion in full?

Mr. CALL.—That is satisfactory.

Mr. REDDING.—Same objection.

Mr. CALL.—I offer in evidence a certified copy from the interior department of a decision of the assistant attorney general, dated November 2, 1885, together with and attached thereto a decision of the secretary of the interior dated November 2, 1885, with reference to the conflicting limits of the Southern Pacific claimed grant and the Texas Pacific grant in California, and ask that the same be marked "Plaintiff's Exhibit No. 11."

Mr. REDDING.—Defendants object to this offer and this exhibit and this correspondence as being incompetent, irrelevant, and immaterial.

Mr. CALL.—I offer in evidence a certified copy of the articles of consolidation of the Southern Pacific Railroad and another road, dated 1874, and ask that the same be marked "Plaintiff's Exhibit No. 12."

Mr. REDDING.—Defendants make the same objection to this offer and this exhibit as they have heretofore made to the offer and the exhibit marked Plaintiff's 1.

Mr. CALL.—I offer in evidence a certified copy of the articles of consolidation and incorporation of the Southern Pacific Railroad Company and various other railroads, dated 1888, and ask that the same be marked "Plaintiff's Exhibit No. 13."

Mr. REDDING.—Same objection.

The further taking of testimony herein is now adjourned to be resumed upon further notice.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GARRIT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 587.

Testimony.

Testimony taken on behalf of the defendants before Leo Longley, special examiner in chancery, duly appointed by the Court, in the above-entitled cause, by consent of the parties, at the office of the clerk of the United States *District* Court, in the city of Los Angeles, California, this 18th day of October, 1895.

Present:

William Singer, Jr., Esq., for the Defendants.

Joseph H. Call, Esq., Special Assistant United States Attorney, for the Plaintiffs.

Mr. CALL.—It is stipulated that defendants shall have until October 19, 1895, inclusive, in which to complete the taking of their testimony. Is that correct?

Mr. SINGER.—That is agreeable.

Mr. SINGER.—I offer in evidence a certified copy of a letter from Charles Crocker, president of the Southern Pacific Railroad Company, addressed to Hon. C. Delano, secretary of the interior, and dated March 22, 1871, which accompanied the map designating the general route of the Southern Pacific branch line railroad, the map being "Defendants' Exhibit No. 9" herein. The letter herein introduced is marked "Defendants' Exhibit No. 31A," in suit No. 600, and I ask that it be marked "Defendants' Exhibit No. 9A."

Mr. CALL.—Objected to as incompetent, immaterial, and irrelevant; and upon the further ground that the act of Congress of March 3, 1871, made no grant of alternate sections of land in aid of the socalled Southern Pacific Railroad branch line; and upon the further ground that said Southern Pacific Railroad branch line made no connection with the Texas Pacific Railroad at or near the Colorado river, or at any other point; and upon the further ground that the corporation, the Southern Pacific Railroad Company, as constituted in 1873 and 1874 and thereafter, by virtue of consolidations with other roads, was not authorized to construct a railroad from Tehachapi Pass, by way of Los Angeles, to the Colorado river; and upon the further ground that the Southern Pacific Railroad Company did not, within the time required by the act of Congress of 1871, or at all, file an acceptance in

the office of the secretary of the interior of the terms and conditions of said act; and upon the further ground that the issues in this case, so far as concerns the lands claimed by the Southern Pacific Railroad Company under said act of 1871, have been previously adjudicated; and upon the further ground that the lands involved in this suit were granted and reserved by the United States before any right of the Southern Pacific Railroad Company attached thereto. And upon the same grounds I object to each of defendants' exhibits from number 1 to number 28, inclusive, heretofore offered.

(It is stipulated that both parties to this suit may introduce in evidence herein any of the depositions or documents on file in the case of United States vs. Southern Pacific Railroad Company, No. 184, and United States vs. Southern Pacific Railroad Company, No. 177, and United States vs. Southern Pacific Railroad Company, No. 68, and United States vs. Southern Pacific Railroad Company, No. 600, on the docket of this Court, without either party objecting thereto upon the ground that such evidence was taken in another case.)

Mr. SINGER.—I offer in evidence a certified copy of a letter from Walter H. Smith, acting secretary of the interior, addressed to Hon. Willis Drummond, commissioner of the general landoffice, dated April 3, 1871, transmitting a map filed by Charles Crocker, as president of the Southern Pacific Railroad Company, designating the general route of its branch line road, in which the secretary of the interior directed a withdrawal of the lands within twenty miles along the route designated, the map

referred to being "Defendants' Exhibit No. 9" herein, and the letter introduced being "Defendants' Exhibit No. 31B" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 9B" herein.

Mr. CALL.—Mr. Singer, in this case it is understood that the words "same objection" shall be held to include the preceding objections in full?

Mr. SINGER.—It is agreeable to me that it shall be throughout.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from Willis Drummond, commissioner of the general landoffice, dated April 21, 1871, addressed to the register and receiver at Visalia, California, transmitting a map showing the twenty and thirty miles limits of the Southern Pacific Railroad Company's branch line grant, and ordering a withdrawal of all the odd numbered sections within such limits, which certified copy is attached to the map introduced in suit No. 600 as "Defendants' Exhibit No. 311," and I ask that the certified copy of the letter be marked "Defendants' Exhibit No. 29."

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from Willis Drummond, commissioner of the general landoffice, dated April 21, 1871, addressed to the register and receiver at Los Angeles, California, transmitting a map showing the twenty and thirty miles limits of the Southern Pacific Railroad Company's branch line grant, and ordering a withdrawal of all the odd numbered sections within such limits, which certified

copy is attached to the map introduced in suit No. 600 as "Defendants' Exhibit No. 312." I ask that a copy of the letter be marked "Defendants' Exhibit No. 30" herein.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a map showing the twenty and thirty miles limits of the Southern Pacific Railroad Company's branch line grant which accompanied the letters introduced herein as Defendants' Exhibit Nos. 29 and 30, being so much of the map introduced in suit No. 600 as "Defendants' Exhibit No. 256," as relates to the branch line grant, and ask that the map be marked "Defendants' Exhibit No. 31" herein.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from C. Delano, secretary of the interior, dated February 17, 1874, and addressed to L. M. Foulke, Eugene L. Sullivan and Calvin Brown, as commissioners of the Southern Pacific Railroad Company, notifying them of their appointment by the President of the United States as commissioners to examine and report upon the Southern Pacific Railroad Company's roads, and requesting them to examine and report upon the completed section of fifty miles of the branch line road, commencing at a point near Fernando in section 3, township 2 north, range 15 west, and ending at a point in section 26, township 1 south, range 9 west, San Bernardino meridian, being "Defendants' Exhibit No. 313" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 32" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from R. B. Cowen, acting secretary of the interior, dated October 1, 1875, and addressed to Messrs Foulke, Brown and Sullivan, as commissioners of the Southern Pacific Railroad, requesting them to examine and report upon an additional fifty miles of the Southern Pacific Railroad Company's branch line road, commencing at a point in section 27, township 1 south, range 9 west, and running in a southeasterly direction to a point in section 4, township 3 south, range 1 west, San Bernardino meridian, being "Defendants' Exhibit No. 314" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 33" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a telegram from Z. Chandler, secretary of the interior, dated June 17, 1876, addressed to L. M. Foulke, Calvin Brown and Eugene L. Sullivan, as commissioners, requesting them to proceed with the examination of fifty additional miles of the Southern Pacific Railroad Company's branch line road, being "Defendants' Exhibit No. 315" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 34" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from Z. Chandler, secretary of the interior, dated February 6, 1877, addressed to L. M. Foulke, Calvin Brown and E. L. Sullivan, commissioners, requesting them to examine and report upon the completed section of fifty miles of the Southern Pacific Railroad Company's

branch line road, commencing near Fernando, in section 3, township 2 north, range 15 west, and extending in a northerly direction to a point in section 17, township 11 north, range 12 west, San Bernardino meridian, being "Defendants' Exhibit No. 316," in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 35" in this suit.

Mr. CALL.—Same objection.

The further taking of testimony herein is now adjourned until October 19, 1895, at 9 o'clock A. M.

October 19, 1895, 9 o'clock A. M.

Present:

William Singer, Jr., Esq., for the Defendants.

Joseph H. Call, Esq., Special Assistant United States Attorney, for the Plaintiff.

Mr. SINGER.—I offer in evidence a certified copy of the appointment of Eugene L. Sullivan, A. S. Bender, and Z. B. Sturgus, as commissioners, to examine and report upon the Southern Pacific branch line railroad, signed by the President, R. B. Hayes, and dated October 27, 1877, being "Defendants' Exhibit No. 317" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 36" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from C. Schurz, secretary of the interior, dated October 27, 1877, and addressed to E. L. Sullivan, A. S. Bender, and Z. B. Sturgus, notifying them of their appointment by the President, and requesting them to ex-

amine and report upon the section of 118.37 miles of the Southern Pacific Railroad Company's completed road, commencing at a point in section 24, township 5 south, range 7 east, and ending at a point in section 26, township 16 south, range 22 east, San Bernardino meridian, being "Defendants' Exhibit No. 318" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 37."

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from S. S. Burdett, commissioner of the general landoffice, dated September 17, 1874, and addressed to the register and receiver at Los Angeles, California, saying that the Southern Pacific Railroad Company had filed its map of definite location of five sections of ten miles each of its branch line road, commencing at a point in section 3, township 2 north, range 15 west, and ending at a point in section 27, township 1 south, range 9 west, San Bernardino meridian, and transmitting a map, attached, showing that line, with the twenty and thirty miles limits of the land grant adjusted thereto; also, attached, a certified copy of the map transmitted with that letter, this letter and map being "Defendants' Exhibit No. 319" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 38" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from S. S. Burdett, commissioner of the general landoffice, dated December 20, 1875, addressed to the register and receiver at Los Angeles, California, saying that the Southern Pacific *Pacific* Railroad Company had filed

its map of definite location and construction of the second section of fifty miles of its railroad, extending from a point in section 27, township 1 south, range 9 west, to a point in section 4, township 3 south, range 1 west, San Bernardino meridian, and transmitting a map showing that line, with the twenty and thirty miles limits of the land grant adjusted thereto; also, attached, a certified copy of the map transmitted with that letter, this letter and map being "Defendants' Exhibit No. 320" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 39" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from U. J. Baxter, acting commissioner of the general landoffice, dated August 19, 1876, addressed to the register and receiver at Los Angeles, California, saying that the Southern Pacific Railroad Company had filed its map of definite location and construction of the third section of fifty miles of its branch line road, extending from a point in section 4, township 3 south, range 1 west, to a point in section 24, township 5 south, range 7 east, San Bernardino meridian, and transmitting a map showing that line, with the twenty and thirty miles limits of the land grant adjusted thereto; also, attached, a certified copy of the map transmitted with that letter, the letter and map being "Defendants' Exhibit No. 321" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 40" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a

letter from J. A. Williamson, commissioner of the general landoffice, dated March 27, 1877, addressed to the register and receiver at Los Angeles, California, saying that the Southern Pacific Railroad Company had filed its map of definite location and construction of the fourth section of 78.59 miles of its branch line road, commencing at a point in section 3, township 2 north, range 15 west, and ending at a point in section 17, township 11 north, range 12 west, San Bernardino meridian, and transmitting a map showing that line, with the twenty and thirty miles limits of the land grant adjusted thereto; also, attached, a certified copy of the map transmitted with that letter; this letter and map being "Defendants' Exhibit No. 322" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 41" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence a certified copy of a letter from J. A. Williamson, commissioner of the general landoffice, dated April 9, 1878, addressed to the register and receiver at Los Angeles, California, saying that the Southern Pacific Railroad Company had filed its map of definite location and construction of the fifth section of 118.37 miles of its branch line road, commencing at a point in section 24, township 5 south, range 7 east, and ending at a point in section 26, township 16 south, range 22 east, San Bernardino meridian, and transmitting a map showing that line, with the twenty and thirty miles limits of the land grant adjusted thereto; also, attached, a certified copy of the map transmitted with that letter; the letter and map being "Defendants' Exhibit

No. 323" in suit No. 600. I ask that it be marked "Defendants' Exhibit No. 42" in this suit.

Mr. CALL.—Same objection.

Mr. SINGER.—I offer in evidence the printed general landoffice report for the year 1875, for the purpose of showing at page 409 thereof that the estimated quantity embraced within the twenty and thirty miles limits of the grant to the Southern Pacific Railroad Company, branch line, contains three million five hundred and twenty thousand acres, and that the estimated quantity which the company will receive from the grant is three million acres, this having been introduced as "Exhibit No. 324" in suit No. 600, and I ask that it be copied into the record here and marked "Defendants' Exhibit No. 43."

Mr. CALL.—Objected to as irrelevant and immaterial.

*Mr. *CALL.*—I offer in evidence another part of this same report, to wit, the balance of pages 408 and 409 of said report, for the purpose of showing that the quantity of land estimated by the commissioner of the general landoffice as falling in the several limits of the grant to the Texas Pacific Railroad, and to which that company would be entitled, is the amount of eighteen million acres, and the amount so estimated which said company would receive from such grant is the amount of seventeen million acres.

*Mr. *SINGER.*—I object to it as irrelevant and immaterial.

(It is stipulated that the examiner shall copy in this record so much of said report as is contained on the title

* Same as certified record.

page, and the heading on the next page, and that part of said report on pages 408 and 409 which relates to the Southern Pacific Railroad Company, main and branch line, and to the Texas Pacific Railroad, including the table headings on page 408.)

(It is stipulated that the defendants may withdraw any of the exhibits offered at the hearing to-day and yesterday, but not including exhibits from any other case, upon substituting a full and complete copy of each of said exhibits, to be compared and certified to by the clerk of this Court; and it is further stipulated that in order to make copies of said exhibits the defendants may withdraw such exhibits for the purpose of making such copies, to be returned to the files of the court within fifteen days from date hereof. And it is further stipulated that an order of Court shall be entered in accordance with this stipulation.)

The further taking of testimony herein is adjourned to be resumed upon further notice.

[Endorsed]: Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 1.

Articles of association, amalgamation, and consolidation

Made and executed on this twelfth day of August, A. D. 1873, by and between the Southern Pacific Railroad Company of the first part, and the Southern Pacific Branch Railroad Company of the second part, witnesseth:

That whereas, the said party of the first part heretofore, to wit, on the eleventh day of October, A. D. 1870, was duly incorporated and organized under the laws of the State of California by the amalgamation and consolidation of the following railroad corporations theretofore existing under the laws *under the laws* of said State, to wit: The San Francisco and San Jose Railroad Company, the Santa Clara and Pajaro Valley Railroad Company, the Southern Pacific Railroad Company, and the California Southern Railroad Company, pursuant to articles of amalgamation and consolidation of that date by them agreed upon, which articles were subsequently amended, to wit, on the eleventh day of April, A. D. 1871, by virtue of the laws of said State, whereby said corporation became duly incorporated and organized under the laws of said State for the purpose of purchasing, constructing, owning, maintaining, and operating a continuous line of railroad from the city of San Francisco, in the State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino and San Diego to some point on the Colorado river, in the southeastern part of the State of California, a distance of seven hundred and twenty miles, as near as may be; also a line of railroad from a point at or near the Colorado river, a distance of three hundred and twenty-four miles, as near as may be; also a line of railroad from the town of Gilroy, in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City in said last-

named county, a distance of forty-five miles, as near as may be; and also such branches to said lines as the board of directors of said corporation may consider advantageous to said corporation and direct to be established;

And whereas, the said party of the second part was, heretofore, to wit, on the twenty-third day of December, A. D. 1872, duly incorporated and organized under the laws of the State of California for the purpose of purchasing, constructing, owning, maintaining, and operating a railroad from a point on the Southern Pacific Railroad (the railroad of the party of the first part) at or near Salinas City in the county of Monterey, southeasterly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin Valley division of the said Southern Pacific Railroad; also from a point on the above-described line, at or near San Miguel in San Luis Obispo county, thence in a southerly direction to a point of intersection in Los Angeles county with the line of the said Southern Pacific Railroad, running from Tehachapi Pass by way of Los Angeles to Fort Yuma, said road passing into or through the counties of Monterey, San Luis Obispo, Kern, Santa Barbara and Los Angeles, and said roads in the aggregate being, as near as may be, four hundred and twenty-eight miles in length;

And whereas, said parties believe a consolidation and amalgamation of their capital stocks, debts, properties, assets, roads, telegraphs, land and franchises will be mutually advantageous;

And whereas, more than three-fourths in value of all the stockholders in interest of each of said parties have

consented in writing to such amalgamation and consolidation upon the terms and conditions hereinafter set forth;

Now, therefore, under and by virtue of the statute of the State of California, in such case made and provided, the said parties do hereby mutually covenant and agree, each with the other to the following articles, to wit:

Article First.

Said parties do hereby amalgamate and consolidate themselves into a new corporation under the name and style of the Southern Pacific Railroad Company, which new corporation shall continue in existence for the period of fifty years from the date of these articles; and they do further consolidate and amalgamate their several capital stocks, debts, properties, assets, roads, telegraphs, lands, franchises, rights, titles, privileges, claims, and demands of every kind whatsoever as well in possession as in expectancy, at law or in equity, and do grant, convey, and vest the same in the said new corporation, as fully as the same are now severally held and enjoyed by them respectively; subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, encumbrances, judgments, claims and charges thereon or in anywise affecting the same or any part thereof.

Article Second.

The object and purpose of said new corporation shall be to purchase, construct, own, maintain, and operate the several lines of railroads hereinbefore described, to wit, a line of railroad from the city of San Francisco, in the

State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino, and San Diego to some point on the Colorado river, in the southeastern part of the State of California, a distance of seven hundred and twenty miles, as near as may be; also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, passing through the counties of Los Angeles, San Bernardino and San Diego, a distance of three hundred and twenty-four miles as near as may be; also a line of railroad from the town of Gilroy in the county of Santa Clara in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City in said last-named county, a distance of forty-five miles, as near as may be; also a line of railroad from a point on the line thirdly above described at or near Salinas City, in the county of Monterey, southeasterly through said county and into Kern county to a point south of Tulare Lake in said last-named county, intersecting at said point the line of railroad first above described, a distance of one hundred and eighty miles, as near as may be; also a line of railroad from a point on the last above-described line, at or near San Miguel, in the county of San Luis Obispo, thence in a southerly direction through said county, the county of Santa Barbara, and into the county of Los Angeles to a point of intersection with the line of railroad secondly above described, to wit, the line from Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near

the Colorado river, a distance of two hundred and forty miles as near as may be—making in all fifteen hundred and nine miles, as near as may be, and such branches to said lines as the board of directors of said new corporation may hereafter, from time to time, establish.

Article Third.

The board of directors of said new corporation shall consist of seven persons, and the following named persons shall act as such directors until their successors shall have been duly elected pursuant to the by-laws of said new corporation hereafter to be adopted, viz., C. P. Huntington, D. D. Colton, Robert Robinson, Charles Mayne, S. T. Gage, E. H. Miller, Jr., and J. L. Willcutt.

Article Fourth.

The capital stock of said new corporation shall be ninety million dollars, divided into nine hundred thousand shares of one hundred dollars each, that sum being the contemplated actual cost of said railroads, including telegraph lines, rolling stock, motive power, shops, depots, etc.

Article Fifth.

Each stockholder of each of said parties shall have the same number of shares of the capital stock of the new corporation which he now owns and holds of the capital stock of his respective company, upon the same terms and conditions, and shall be entitled to receive from said new corporation certificates therefor, where the same has been fully paid up, upon the surrender of the certificates now held by him, and, where the same has not been fully paid

up, he shall receive such other evidence of his ownership as the board of directors of said new corporation shall direct upon the surrender of such evidence of his ownership of such unpaid stock as he may now hold.

Article Sixth.

And the said several parties of the first and second parts, each for itself, hereby sells, assigns, transfers, grants, bargains, releases, and conveys to the said new and consolidated company and corporation, its successors and assigns forever, all its property, real, personal, and mixed of every kind and description; all its capital stock; all its interest in the shares of its capital stock subscribed but not fully paid for; all credits, effects, judgments, decrees, contracts, agreements, claims, dues and demands of every kind and description; and all rights, privileges and franchises, corporate and otherwise, held, owned, or claimed by said parties of the first and second parts, or either of them, in possession or expectancy, either at law or in equity, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, encumbrances, claims, and charges thereon, or in anywise affecting the same.

Article Seventh.

The said new and consolidated company and corporation is to be liable for, and shall fulfill, perform, do and pay all and each of the contracts, and agreements, covenants, duties, obligations, liabilities, debts, dues, and demands of the said several parties of the first and second parts; but this amalgamation and consolidation shall

not in any way relieve the said parties of the first and second parts, or the stockholders thereof, from any and all just liabilities.

In testimony whereof, the said party of the first part has caused this instrument to be signed by its vice-president (the president being absent) and its secretary, and its corporate seal to be thereunto affixed, and the said party of the second part has caused this instrument to be signed by its president and secretary, and its corporate seal thereunto affixed, in pursuance of orders and resolutions of their several boards of directors made on the twelfth day of August, 1873.

[Seal] SOUTHERN PACIFIC RAILROAD COMPANY,
By DAVID D. COLTON,
Vice-President.
J. L. WILLCUTT,
Secretary.

[Seal] SOUTHERN PACIFIC BRANCH RAILROAD COMPANY,
By B. R. CROCKER,
President.
By E. H. MILLER, Jr.,
Secretary.

We, the undersigned, being the holders of stock to the extent of more than three-fourths of the value of all stockholders in interest of the said Southern Pacific Railroad Company, party of the first part, to the foregoing new articles of association, amalgamating and consolidating the said parties of the first and second parts, here-

by consent to such amalgamation and consolidation and to the said new articles of association, this twelfth day of August, A. D. 1873.

LELAND STANFORD,
CONTRACT & FINANCE CO.,
Pr W. E. BROWN, Secy.
MARK HOPKINS.
ROBERT ROBINSON.
S. T. GAGE.
CHAS. MAYNE.
DAVID D. COLTON.
J. L. WILLCUTT.
E. H. MILLER, Jr.

We, the undersigned, being the holders of stock to the extent of more than three-fourths of the value of all stockholders in interest of the said Southern Pacific Branch Railroad Company, party of the second part, to the foregoing new articles of association, amalgamating and consolidating the said parties of the first and second parts, hereby consent to such amalgamation and consolidation and to the said new articles of association, this twelfth day of August, 1873.

LELAND STANFORD.
E. H. MILLER, Jr.
ALBERT GALLATIN.
MARK HOPKINS.
E. W. HOPKINS.
C. H. CUMMINGS.
B. R. CROCKER.

State of California, Department of State.

I, W. C. Hendricks, secretary of State of the State of California, do hereby certify that I have carefully compared the annexed copy of articles of association, amalgamation, and consolidation between the Southern Pacific Railroad Company and the Southern Pacific Branch Railroad Company with the original now on file in my office, and that the same is a correct transcript therefrom and of the whole thereof. Also, that this authentication is in due form and by the proper officer.

Witness my hand and the Great Seal of State at office in Sacramento, California, the 5th day of September, A. D. 1889.

[Seal]

W. C. HENDRICKS,
Secretary of State.
By H. B. Davidson,
Deputy.

[Endorsed]: (Copy.) No. 258. Articles of association, amalgamation and consolidation of the Southern Pacific R. R. Co. with the Southern Pacific Branch R. R. Co. (Endorsed:) Filed in the office of the secretary of State, August 19, 1873. Drury Melone, Secty. of State. H. By H. H. Russell, Depty. Record Book, 4, page 584. "Exhibit AB." Stipulated before the master, Exhibit "B." J. D. R. J. H. C. U. S. Circuit Court, Southern Dist. of Cal. United States vs. S. P. R. R. Co. No. 68. Master's Exhibit No. 125. Filed March 20, 1890. Chas. L. Batcheller, Master and Examiner in Chancery.

U. S. Cir. Court, Southern District California. United States vs. S. P. R. R. Co. 195. Master's and Examiner's

Exhibit No. 1. E. H. Lamme, Master and Examiner in Chancery. For complainant. Plaintiffs' Exhibit No. 1. E. H. Lamme, Examiner. Filed November 22d, 1889. Wm M. Van Dyke, Clerk. E. H. L. 3.

U. S. Cir. Court, Southern District California. S. P. R. R. Co. vs. Hutton et al. 305. Examiner's Exhibit No. 3. E. H. Lamme, Master and Examiner in Chancery.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 1. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Plaintiffs' Exhibit No. 3. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 3.

M. N. (4-207a.) W. J. M.
F.

Department of the Interior.

General Land Office,

Washington, D. C., October 7th, 1893.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed diagram showing the limits of the withdrawal made for the Texas Pacific Railroad, in California, is a true and literal exemplification of the original on file in this office and the letter attached thereto is a true copy of office letter of September 27, 1871, of record in this office, transmitting

a copy of said original diagram to the district officers at Los Angeles, California, and ordering a withdrawal of the lands embraced thereby.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] S. W. LAMOREUX,
Commissioner of General Landoffice.

F.
W. K. M.

Department of the Interior,
General Landoffice,
September 27th, 1871.

Register acks. receipt Jany. 23d, 1873, stating that instructions and map reached their office Oct. 15th, 1871. "K." 33.274.

Register and Receiver, Los Angeles, California.

Gentlemen: By direction of the secretary of interior, dated 2d inst., and in accordance with the 12th section of the act of 3d March, 1871, granting lands to aid in the construction of the Texas Pacific Ralroad, I transmit herewith a map showing the designated line of route of said railroad in the State of California and the limits to the extent of twenty miles of the land grant on each side of said road, and you are hereby directed to withdraw from pre-emption or homestead entry, private entry, or sale, all the odd-numbered sections of land surveyed or unsurveyed with-

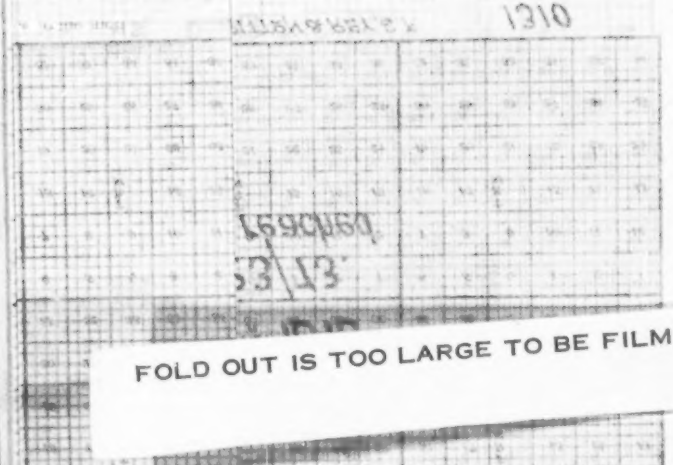
within those limits. The even-numbered sections are by the terms of the act open to pre-emption and homestead entry when surveyed, and you will so treat them, holding them in accordance with the requirements of the act of March 3d, 1853, at the double minimum price of $2.50 per acre.

Pre-emption or homestead settlers on any of the surveyed lands prior to this withdrawal, and who shall meet the requirements of law, will be entitled to hold their lands at the minimum price of $1.25 per acre.

This order will take effect from the date of its receipt by you, and you are directed to acknowledge the exact time of its reception.

Very respectfully,

W. W. CURTIS,
Acting Commissioner.



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Plaintiffs' Exhibit No. 9.

Townships	Range	Private grants. Acres.
11 S.,	1 W.	447.92
11 S.,	2 W.	206.06
11 S.,	3 W.	1,919.55
11 S.,	4 W.	6,114.10
12 S.,	1 W.	11,665.09
12 S.,	2 W.	17,063.35
12 S.,	3 W.	13,210.00
12 S.,	4 W.	11,740.00
13 S.,	1 W.	2,709.32
13 S.,	2 W.	15,182.65
13 S.,	3 W.	10,062.79
13 S.,	4 W.	2,000.00
15 S.,	1 W.	20,604.00
15 S.,	2 W.	15,422.00
15 S.,	3 W.	18,011.00
16 S.,	1 W.	16,520.63
17 S.,	1 W.	15,738.00
18 S.,	1 W.	11,843.93
18 S.,	2 W.	5,846.00
		196,306.39
11 S.,	1 E.	10,266.17
12 S.,	1 E.	1,319.60
13 S.,	1 E.	16,023.48
14 S.,	1 E.	8,540.63
15 S.,	1 E.	16,710.00
16 S.,	1 E.	4,970.16
17 S.,	1 E.	7,001.93
18 S.,	1 E.	1,313.50
		66,145.47

66,145.47

10 S.,	2 E.	3,900.00
10 S.,	3 E.	15,111.00
11 S.,	2 E.	8,200.00
11 S.,	3 E.	15,204.85
12 S.,	2 E.	2,134.96
12 S.,	3 E.	12,466.97
13 S.,	4 E.	5,479.86
14 S.,	4 E.	21,123.00
15 S.,	4 E.	8,770.00
		92,390.64

92,390.64
196,306.39
66,145.47

354,842.50 acres

[Endorsed]: Plff. 9. L. L. United States Circuit Court, Ninth Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 9. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 10.

Plff. 10, L. W. J. M.
"F"
F. I. W. (4—207.)

Department of the Interior.

General Landoffice,
Washington, D. C., March 22, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of a map, certificate, and letter is a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] S. W. LAMOREUX,
Commissioner of General Landoffice.

Exd. M. B. H.
S. A. B.

Land Grant Railroads.

Department of the Interior.

Washington, D. C., 2d Sept. 1871.

Sir: I transmit herewith a map (and certificate of President and Chief Engineer dated 15th ult.) of the general route of the Texas Pacific Railroad "from El Paso, State of Texas, to Ship's Channel, San Diego, State of California," being that portion of the line on which the public lands have been granted to the company.

In compliance with the act of 3d March, 1871 (Sec. 9th and 12th sections thereof, 16th Statutes, pp. 576-7), you will cause a withdrawal of the granted lands "from pre-emption, private entry and sale.

Very respectfully,
Your obt. servant,
C. DELANO,
Secretary.

—Map 3.
Tube 48.
Div. "F"

Office of the Texas Pacific Railroad,

August 15, 1871.

It is hereby certified that in pursuance of the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road and for other purposes," wherein a grant of lands is made by the ninth section to the Texas Pacific Railroad, who are thereby authorized to construct a railroad and telegraph line from a point at or near Marshall, county of Harrison, State of Texas, to Ship's Channel, bay of San Diego, State of California, this map shows the general location of the line or route of said railroad, from El Paso, State of Texas, to Ship's Channel, San Diego, State of California (being that portion of the line on which the public lands granted by section IX of the above-entitled act are located), as adopted by the Texas Pacific Railroad Company in compliance with said act of Congress.

In testimony whereof the Texas Pacific Railroad Company has caused the same to be signed by its president and engineer, and has attached hereunto its corporate seal at New York on the day and year first above written.

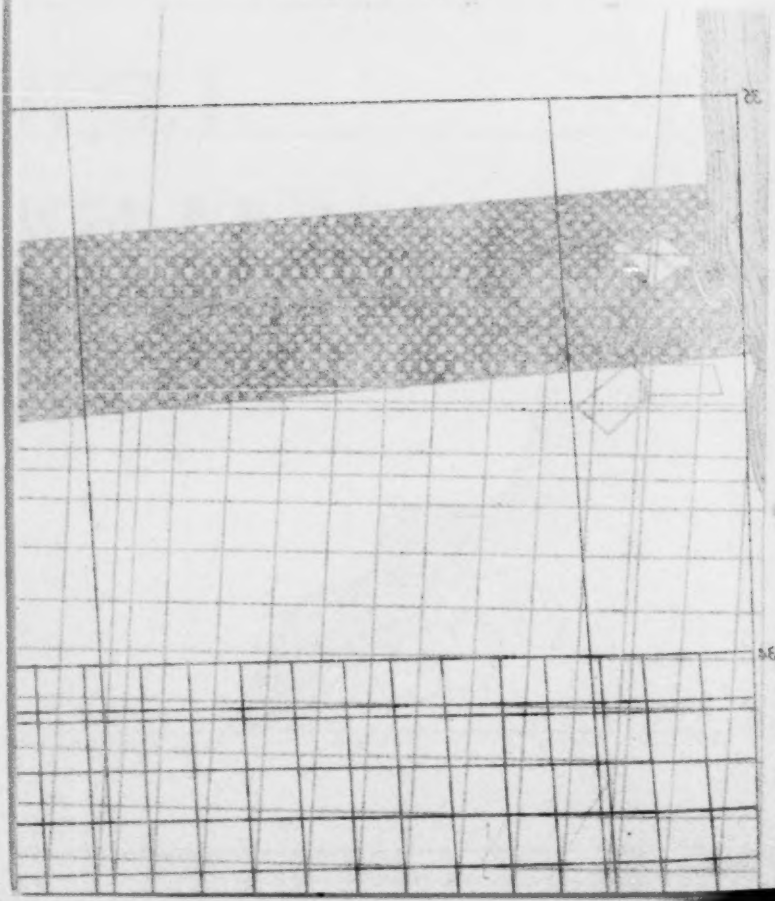
[Seal] MARSHALL O. ROBERTS,
President.

GEO. C. BUELL,
Chief Engineer.

W. P. TALBOYE,
Asst. Secretary.

FOLD OUT IS TOO LARGE TO BE FILMED
104

U. S. Circuit Court
9th Circuit So. Dist of Cal
U. S.
vs. No 587
S. P. R. R. Co et al
Plaintiffs Ex hibit No 10
Geo Langley
Special Examiner



Plaintiffs' Exhibit No. 11.

Plffs. Ex. 11. L. A. L.

"F" W. J. M.

F. I. W. (4—207.)

Department of the Interior.

General Landoffice,

Washington, D. C., March 22, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed copy of the opinion of the assistant attorney general, dated November 2, 1885, and of a letter from the honorable secretary of the interior, dated November 2, 1885, is a true and literal exemplification of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of General Landoffice.

Compd.

S. A. B. M. B. H.

Department of the Interior.

Office of the Assistant Attorney General,

Washington, D. C., November 2, 1885.

Honorable L. Q. C. Lamar, Secretary of the Interior.

Sir: Agreeably to request for an opinion touching the matter of the restoration to market of certain lands in

California within what are claimed as the joint limits of the Texas Pacific and Southern Pacific Railroad Companies, I beg leave to submit the following:

On March 3, 1871, Congress passed an act incorporating the Texas Pacific Railroad Company, and authorizing said company to construct a railroad and telegraph line, "From a point at or near the town of Marshall, county of Harrison, Texas; thence by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizon, to a point on the Rio Colorado at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to Ship's Channel, in the bay of San Diego, in the State of California."

It was also thereby enacted: "That for the purpose of aiding in the construction of the railroad and telegraph line herein provided for there is hereby granted to said Texas Pacific Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line as such line may be adopted by said company, through the territories of the United States, and ten alternate sections per mile on each side of said railroad in California when the same shall not have been sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not

have attached at the time the line of said road is definitely fixed."

It is further provided: "That the said Texas Pacific Railroad Company shall commence the construction of its road simultaneously at San Diego, in the State of California, and from a point at or near Marshall, Texas, * * and so prosecute the same as to have at least fifty consecutive miles of railroad from each of said points complete and in running order within two years after the passage of this act, and to continue to construct each year thereafter a sufficient number of miles to secure the completion of the whole line from the aforesaid point on the eastern boundary of the State of Texas to the bay of San Diego in California within ten years after the passage of this act," etc.

Section 23 of the same act provides as follows: "That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions and conditions as were granted to said Southern Pacific Railroad Company of California by the act of July 27, 1866; provided, however, that this section shall in no way affect or impair the rights present or prospective of the Atlantic and Pacific Railroad Company or any other railroad company." (See 16 U. S. Stat., pp. 573-579.)

It is under the last-named section that the Southern Pacific Railroad Company, appellant, claims the lands now in controversy, to wit, lands alleged to be within what are claimed as the common grant limits of the Texas Pacific and the Southern Pacific roads.

In order to determine what construction it is proper to give to the granting clause of sec. 23 of the above act of March 3, 1871, let us consider the legal rules laid down by the Supreme Court of the United States for the interpretation of granting acts of this character.

In the case of the "Dubuque and Pacific Railroad Company v. Litchfield" (23 Howard, p. 88), the Supreme Court says:

"All grants of this description are strictly construed against the grantees; nothing passes but what is conveyed in clear and explicit language; and as the rights here claimed are derived entirely from the act of Congress, the donation stands on the same footing as a grant by the public to a private company, the terms of which must be plainly expressed in the statute; and if not thus expressed, they cannot be implied."

Further on, quoting the language of Lord Ellenborough, the Court says:

"If the words would admit of different meanings, it would be right to adopt that which is more favorable to the interests of the public, and against that of the company. * * * * The reason of the above rule is obvious—parties seeking grants for private purposes usually draw the bills making them. If they do not make the language sufficiently explicit and clear to pass every-

thing that is intended to be passed, it is their own fault. On the other hand, such a construction has a tendency to prevent parties from inserting ambiguous language for the purpose of taking by ingenious interpretation that which cannot be obtained by plain and express terms."

It can scarcely be claimed that the reason of this rule is the less applicable to the present case because of the fact that more than one grant is provided for in the same act.

At the time the Southern Pacific Company was seeking to procure the grant provided for in section 23 of said act, the possibility of a forfeiture of its grant by the Texas Pacific was well known to said Southern Pacific Company. Hence, according to the above rule of construction, if said section 23 of said act is so worded as to leave it uncertain whether the lands now in question passed to the Southern Pacific, or whether in the event of a forfeiture by the Texas Pacific—just such as has taken place—it was intended that said lands should revert to the Government, all such uncertainty must be resolved in favor of the Government.

The same rule of construction as that above laid down in 23d Howard has been again and again reiterated by the Supreme Court of the United States—notably in the case of the Leavenworth etc. R. R. Co. v. The United States. (See 92 U. S. 740.)

It will be observed that the first and chief object of the above-named act was to secure the building of a railroad from Marshall, Texas, to the bay of San Diego, California; and secondly, to connect said railroad, when

built, with the city of San Francisco. And it appears, from appellant's own showing, that although a map of general route of said Texas Pacific Railroad was filed in the general landoffice, yet not a mile of said road was ever built, nor was its line of definite location ever established. So that not only was it impossible for the Southern Pacific road to establish a connection between said road and city of San Francisco (the very thing which the Southern Pacific Company was required to do as the condition, and in consideration of its grant), but it was impossible for the said last-named company, in the absence of a definite location of the line of said Texas Pacific road, either to connect therewith or to know at what point such connection could even prospectively be made. Thus matters stood up to February 28, 1885, when Congress declared a forfeiture of the lands granted to said Texas Pacific Railroad Company. In pursuance of said act, and under instructions from the honorable secretary of the interior, the honorable commissioner of the general landoffice, on March 17, 1885, directed the register and receiver of the landoffice at Los Angeles, California, to cause notice to be published, "That the odd-numbered sections of land heretofore withdrawn for said grant (to the Texas Pacific Railroad Company) have been restored, and that the books of your office are now open for the entry of said lands under the pre-emption, homestead, and other laws relating to unoffered lands."

On the following day, to wit, March 8, 1885, the above order was modified by a letter addressed to said register

and receiver at Los Angeles, signed by the then acting commissioner of the landoffice, advising them that, "The lands in the limits of the withdrawal for said (Texas Pacific) grant, which are also within the limits of the grant to aid in the construction of the branch line of the Southern Pacific Railroad, will not be affected by this restoration."

On April 4, 1885, the Hon. A. J. Sparks, commissioner of the general landoffice, by letter to the said register and receiver at Los Angeles, revoked the said modified order of March 18, 1885, leaving in force the aforesaid order of March 17, 1885. From this last-named order of April 4, the Southern Pacific Railroad Company has appealed.

Long prior to the passage of said act of Congress, declaring a forfeiture of said grant to the Texas and Pacific Company, the Southern Pacific Company had extended its road from Tehachapi southward, through the lands embraced within the map of general route of the Texas Pacific, to and across the Colorado river, by way of El Paso, into Texas; and the question now presented is, Can said Southern Pacific Company, by virtue of said 23d section of said act of March 3, 1871, rightfully claim the alternate odd sections of land lying along the line of its said road, and within the grant limits of the Texas Pacific Road?

In view of the fact that, without any fault of the Government, it became impossible for the Southern Pacific to establish a railroad connection between the city of San Francisco and said Texas Pacific road "at or near

the Colorado river"—the accomplishment of which work, as suggested above, constituted the very condition upon which its right to a grant was seemingly made to depend—it might be a serious question whether or not, in the absence of congressional relief, said Southern Pacific Company is in a position to demand an acre of the land originally intended to be granted. According to the general doctrine pervading the law of dependent contracts, an impossibility to perform the conditions of such a contract will not excuse nonperformance when such impossibility is occasioned either by the act of God or a stranger. (See 2 Chitty on Contracts, 9th English edition, p. 1086.)

But without discussing the question of the applicability of this doctrine to the case under consideration, let us inquire whether it clearly appears that Congress ever intended to grant to the Southern Pacific Company any land within the grant limits of the Texas Pacific.

As we have seen, the closing words of said section 23 of the act above quoted—the section under which the Southern Pacific claims the lands in question—are as follows:

"Provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Company or any other railroad company."

Now, in view of the fact that this same act, in its preceding sections, had already declared that the "Texas Pacific" was thereby constituted an incorporated railroad company, and was granted certain lands, including

all the odd-numbered sections now in dispute, it is difficult to see how it would have been possible more clearly to except said lands from the operation of said grant to the Southern Pacific, than by providing that the latter grant should not "affect or impair the rights, present or prospective, of any other railroad company."

Appellant's counsel contend that the "Texas Pacific Railroad Company" is not embraced in the term "Any other railroad company," and in support of this contention one of said counsel in his brief cites the following authority: "In Sandinam v. Beach (7 Barn. & Cress. 96) it was held by Lord Tenterden, delivering the unanimous opinion of the Queen's Bench, that the Stat. 29, Car. 2, c. 7, that no tradesman, laborer, or other person or persons shall do or exercise any worldly labor, business, or work of ordinary calling upon the Lord's day, did not include the drivers of stage-coaches, because, where general words follow particular ones the rule is to construe them as applicable to persons ejus dem generis."

If the act of Congress under which the Southern Pacific Railroad Company claims its grant had been a penal statute, where every intendment must be taken most strongly against the Government, instead of a statute granting lands, where every intendment must be taken most strongly against the grantee, and in favor of the Government; and if "The Texas Pacific Railroad Company" (when so incorporated and so christened by act of Congress) lacked as much of being a railroad company as does the driver of a stage-coach lack of being either a "tradesman" or an "artificer," it might in that event be

logically contended that the above-quoted decision of the court of queen's bench was an authority in point in this case.

But it can scarcely be presumed that Congress, while in the very act of incorporating the Texas Pacific Railroad Company, and granting to it certain lands in order to enable it to work out the objects of its creation, could have intended to exclude it from the beneficial effects of a clause specifically declared to be for the protection of the rights of the Atlantic and Pacific Railroad Company "and all other railroad companies," against all claims of the Southern Pacific based upon section 23 of the aforesaid act.

Again: It is a recognized rule of construction, alike applicable both to statutes and to contracts, that where one construction will give force and effect to every part of a statute—or of a contract—while a different construction would produce a conflict between different parts thereof, the former construction must be adopted. And in this case it is clear that if we so construe said section 23 as to make it pass to the Southern Pacific Company any of the odd-numbered sections of land within the grant limits of the Texas Pacific, such a construction would bring said action into palpable conflict with section 9 of the same act, whereby all the odd-numbered sections within said limits were granted to the Texas Pacific. If, however, we give to said proviso embodied in section 23 its literal meaning as above suggested, no such conflict will be found; and all the parts of said act will stand in perfect harmony with each other.

After a careful consideration of the whole case, I am therefore of opinion that the action of the commissioner appealed from ought to be sustained.

Z. MONTGOMERY,
Assistant Attorney General.

Compd.
M. B. H. S. A. B.

Department of the Interior.

Washington, November 2, 1885.

To Hon. W. A. J. Sparks, Commissioner of the General Landoffice.

Sir: In the matter of the appeal of the Southern Pacific Railroad Company from your office decision of April 4, 1885, directing the local officers at Los Angeles, California, to be governed by instructions of March 17, 1885, directing them to give notice of the restoration of all lands theretofore withdrawn for the Texas and Pacific Railway and revoking your office letter of March 18, 1885, excluding from such restorations lands along the branch line of the Southern Pacific Railroad, where the same passes through lands withdrawn for said Texas and Pacific Railway, I have carefully considered the points presented by said appeal, and, for the reasons set forth in the foregoing opinion, the said decision appealed from is hereby affirmed. Papers returned herewith.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

[Endorsed]: United States Circuit Court, Ninth Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 11. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 12.

Articles of Association, Amalgamation, and Consolidation.

Made and executed this Seventeenth day of December, A. D. 1874, by and between the Southern Pacific Railroad Company, of the first part, and the Los Angeles and San Pedro Railroad Company, party of the second part, Witnesseth:

That whereas, the said party of the first part heretofore to wit, on the ninteenth day of August, A. D. 1873, was duly incorporated and organized under the law of the State of California by the amalgamation and consolidation of the following railroad corporations theretofore existing under laws of said State, to wit, The San Francisco and San Jose Railroad Company, The Santa Clara and Pajaro Railroad Company, The Southern Pacific Railroad Company, The California Southern Railroad Company, and The Southern Pacific Branch Railroad Company, all of said railroad companies being incorporated and duly organized under the laws of the State of California prior to the thirty-first day of December, A. D. 1872, pursuant to articles of amalgamation and consolidation of that date by them agreed upon, which, by virtue of the law of said State entitled, "An act to

provide for the incorporation of railroad companies and the management of the affairs thereof and other matters relating thereto," approved May 20, 1861, whereby said corporation became duly incorporated and organized under the laws of said State for the purposes of purchasing, constructing, owning, maintaining, and operating, continuous lines of railroad from the city and county of San Francisco, in the State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino, and San Diego, to some point on the Colorado river in the southeastern part of the State of California, a distance of six hundred and thirty-five and 87-100 miles, as near as may be; also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, a distance of three hundred and fifty-six and 7-100 miles, as near as may be; also a line of railroad from the town of Gilroy in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City in said last-named county, a distance of thirty-five and 1-10 miles, as near as may be, and also such branches to said lines as the board of directors of said corporation may consider advantageous to said corporation and direct to be established. And also from a point on said road aforesaid, at or near Salinas City in the county of Monterey, southerly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin division of the said Southern Pacific Railroad; also

from a point on the above-described line at or near San Miguel in San Luis Obispo county, thence in a southerly direction to a point of intersection in Los Angeles county with the line of the said Southern Pacific Railroad running from Tehachapi Pass, by way of Los Angeles to Fort Yuma, said roads passing into or through the counties of Monterey, San Luis Obispo, Kern, Santa Barbara and Los Angeles, and said roads in the aggregate being, as near as may be, four hundred and two (402) miles in length;

And whereas, the said party of the second part was heretofore, to wit, on the eighteenth day of February, A. D. 1868, duly incorporated and organized under the laws of the State of California, for the purpose of constructing, owning, and maintaining and operating a railroad from a point in the city of Los Angeles, in the county of Los Angeles, State of California, to a point on or near the bay of San Pedro in said county, a distance of twenty and 5-10 miles;

And whereas, said parties believe a consolidation and amalgamation of their capital stock, debts, properties, assets, roads, telegraphs, lands and franchises will be mutually advantageous;

And whereas, more than three-fourths in value of the stockholders in interest of each of said parties have consented in writing to such amalgamation and consolidation upon the terms and conditions hereinafter set forth;

And whereas, all of the railroad corporations included in the several consolidations were duly incorporated prior to the 31st day of December, A. D. 1872:

Now, therefore, under and by virtue of the fortieth section of a law of the State of California, entitled "An act to provide for the incorporation of railroad companies and the management of the affairs thereof and other matters relating thereto," approved May 20, 1861, and the several amendments thereto, the said parties do hereby mutually covenant and agree, each with the other, to the following articles, to wit:

Article First.

Said parties do hereby amalgamate and consolidate themselves into a new corporation, under the name and style of the Southern Pacific Railroad Company, which new corporation shall continue in existence for the period of fifty years from the date of these articles; and they do further consolidate and amalgamate their several capital stocks, debts, properties, assets, roads, telegraphs, lands, franchises, rights, title, privileges, claims, and demands of every kind whatsoever, as well in possession as in expectancy, at law or in equity, and do grant, convey, and vest the same in the said new corporation as fully as the same are now severally held and enjoyed by them respectively, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, incumbrances, judgments, claims, and charges thereon or in anywise affecting the same or any part thereof.

Article Second.

The object and purpose of said new corporation shall be to purchase, construct, own, maintain, and operate

the several lines of railroad hereinbefore described, to wit: continuous lines of railroad from the city and county of San Francisco in the State of California, through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino, and San Diego to some point on the Colorado river, in the southeastern part of the State of California, a distance of six hundred and thirty-five and 87-100 miles, as near as may be; also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, a distance of three hundred and fifty-six and 7-10 miles, as near as may be; also a line of railroad from the town of Gilroy, in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas city, in said last-named county, a distance of thirty-five and 1-10 miles, as near as may be, and also such branches to said lines as the board of directors of said corporation may consider advantageous to said corporation and direct to be established.

And also from a point on said road aforesaid at or near Salinas City, in the county of Monterey, southerly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin division of the said Southern Pacific Railroad; also from a point on the above-described line at or near San Miguel, in San Luis Obispo county, thence in a southerly direction to a point of intersection in Los Angeles county with the line of the said Southern Pacific Railroad, running from Tehachapi Pass, by way of

Los Angeles, to Fort Yuma, said roads passing into or through the counties of Monterey, San Luis Obispo, Kern, Santa Barbara, and Los Angeles, and said roads in the aggregate being, as near as may be, four hundred and two miles in length; also from a point in the city of Los Angeles, in the county of Los Angeles, State of California, to a point on or near the bay of San Pedro in said county, a distance of twenty and one-half miles. The aggregate length of all of said railroads, being one thousand four hundred and forty-nine and fifty-four one-hundredths miles.

Article Third.

The board of directors of said new corporation shall consist of seven persons, and the following named persons shall act as such directors until their successors shall have been duly elected pursuant to the by-laws of said new corporation hereafter to be adopted, viz: Charles Crocker, David D. Colton, E. H. Miller, Jr., Robert Robinson, Nicholas T. Smith, Stephen T. Gage, and Joseph L. Willcutt.

Article Fourth.

The capital stock of said new corporation shall be ninety millions dollars divided into nine hundred thousand shares of one hundred dollars each, that sum being the contemplated actual cost of said railroads, including telegraph lines, rolling stock, motive power, shops, depots, etc.

Article Fifth.

Each stockholder of each of said parties shall have the same number of shares of the capital stock of the new

corporation which he now owns and holds of the capital stock of his respective company, upon the same terms and conditions, and shall be entitled to receive from said new corporation certificates therefor where the same has been fully paid up, upon the surrender of the certificates now held by him, and where the same has not been fully paid up he shall receive such other evidence of his ownership as the board of directors of said new corporation shall direct upon the surrender of such evidence of his ownership of such unpaid stock as he may now hold.

Article Sixth.

And the said several parties of the first and second parts, each for itself, hereby, sells, assigns, transfers, grants, bargains, releases, and conveys to the said new and consolidated company and corporation, its successors and assigns, forever, all its property, real, personal, and mixed, of every kind and description; all its capital stock; all its interest in the shares of its capital stock, subscribed but not fully paid up; all credits, effects, judgments, decrees, contracts, agreements, claims, dues, and demands of every kind and description, and all rights, privileges, and franchises, corporate and otherwise, held, owned, or claimed by said parties of the first and second parts or either of them, in possession or expectancy, either at law or in equity, subject, however, to all conditions, obligations, stipulations, contracts, agreements, liens, mortgages, incumbrances, claims, and charges thereon, or in anywise affecting the same.

Article Seventh.

The said new and consolidated company and corporation is to be liable for and shall fulfill perform, do, and pay all and each of the contracts and agreements, covenants, duties, obligations, liabilities, debts, dues and demands of the said several parties of the first and second parts; but this amalgamation and consolidation shall not in any way relieve the said parties of the first and second parts, or the stockholders thereof, from any and all just liabilities.

In testimony whereof, the said party of the first part has caused this instrument to be signed by its president and secretary and its corporate seal to be hereunto affixed, and the said party of the second part has caused this instrument to be signed by its president and secretary and its corporate seal hereunto affixed, in pursuance of orders and resolutions of their several boards of directors made on the seventeenth day of December, A. D. 1874.

SOUTHERN PACIFIC RAILROAD COMPANY.

[Corporate Seal] By CHAS. CROCKER,
President.

J. L. WILLCUTT,
Secretary.

LOS ANGELES AND SAN PEDRO RAILROAD COMPANY.

[Corporate Seal] By LELAND STANFORD,
President.

J. L. WILLCUTT,
Secretary.

We, the undersigned, being the holders of stock to the extent of more than three-fourths of the value of all stockholders in interest of the said Southern Pacific Railroad Company, party of the first part to the foregoing new articles of association, amalgamating and consolidating the said parties of the first and second parts, hereby consent to such amalgamation and consolidation and to the said new articles of association this seventeenth day of December, A. D. 1874.

CHAS. CROCKER.
S. T. GAGE.
N. T. SMITH.
DAVID D. COLTON.
E. H. MILLER, Jr.
J. L. WILLCUTT.
ROBERT ROBINSON,
MARK HOPKINS.
LELAND STANFORD.
C. P. HUNTINGTON.
By MARK HOPKINS,
Atty. in Fact.
CONTRACT & FINANCE CO.
By JNO. MILLER,
Secty.

We, the undersigned, being the holders of stock to the extent of more than three-fourths of the value of all stockholders in interest of the said Los Angeles and San Pedro Railroad Company, party of the second part to the foregoing new articles of association, amalgamating and consolidating the said parties of the first and second

parts, hereby consent to such amalgamation and consolidation and to the said new articles of association, this seventeenth day of December, A. D. 1874.

LELAND STANFORD,
CHAS. CROCKER.
DAVID D. COLTON.
MARK HOPKINS.
C. P. HUNTINGTON.
By MARK HOPKINS,
Atty. in Fact.
ROBERT ROBINSON,
J. L. WILLCUTT.
CONTRACT & FINANCE CO.
By JNO. MILLER,
Secty.

State of California, Department of State.

I, E. G. Waite, secretary of State, of the State of California, do hereby certify that I have carefully compared the annexed copy of articles of association, amalgamation, and consolidation of Southern Pacific R. R. Co. and Los Angeles and San Pedro R. R. Co. with the original now on file in my office, and that the same is a correct transcript therefrom, and of the whole thereof. Also, that this authentication is in due form, and by the proper officer.

Witness my hand and the great seal of State at office, Sacramento, California, the 23d day of April, A. D. 1894.

[Seal]

E. G. WAITE,
Secretary of State.

[Endorsed]: Plffs. Ex. 12. L. A. L. Articles of Association, amalgamation and consolidation of the Southern Pacific Railroad Company and Los Angeles and San San Pedro Railroad Company. [Endorsed]: Filed in the office of the secretary of State, Dec. 18, 1874. Drury Melone, Sec. State. By N. S. White. Recorded Book 9, page 354. Department of State, California.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al., No. 587. Plaintiffs' Exhibit No. 12. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Plaintiffs' Exhibit No. 4. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 13.

Articles of Association, Incorporation, Amalgamation, and Consolidation of the Southern Pacific Railroad Company, the San Jose and Almaden Railroad Company, the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the Monterey Extension Railroad Company, the Southern Pacific Branch Railway Company, the San Pablo and Tulare Railroad Company, the San Pablo and Tulare Extension Railroad Company, the San Ramon Valley Railroad Company, the Stockton and Copperopolis Railroad Company, the Stockton and Tulare Railroad Company, the San Joaquin Valley and Yosemite Railroad Company, the Los Angeles and San Diego

Railroad Company, the Los Angeles and Independence Railroad Company, the Long Beach Whittier and Los Angeles County Railroad Company, the Long Beach Railroad Company, the Southern Pacific Railroad Extension Company, and the Ramona and San Bernardino Railroad Company.

Articles of association, incorporation, amalgamation, and consolidation made and executed on the fourth (4th) day of May, 1888, by and between the Southern Pacific Railroad Company, party of the first part; the San Jose and Almaden Railroad Company, party of the second part; the Pajaro and Santa Cruz Railroad Company, party of the third part; the Monterey Railroad Company, party of the fourth part; the Monterey Extension Railroad Company, the party of the fifth part; the Southern Pacific Branch Railway Company, party of the sixth part; the San Pablo and Tulare Railroad Company, party of the seventh part; the San Pablo and Tulare Extension Railroad Company, party of the eighth part; the San Ramon Valley Railroad Company, party of the ninth part; the Stockton and Copperopolis Railroad Company, party of the tenth part; the Stockton and Tulare Railroad Company, party of the eleventh part; the San Joaquin Valley and Yosemite Railroad Company, party of the twelfth part; the Los Angeles and San Diego Railroad Company, party of the thirteenth part; the Los Angeles and Independence Railroad Company, party of the fourteenth part; the Long Beach, Whittier and Los Angeles County Railroad Company, party of the fifteenth part; the Long Beach Railroad Company, party of the sixteenth part;

the Southern Pacific Railroad Extension Company, party of the seventeenth part, and the Ramona and San Bernardino Railroad Company, party of the eighteenth part, witnesseth:

That whereas, the party of the first part, the Southern Pacific Railroad Company, is the owner of a line of railroad and franchises commencing in the city and county of San Francisco, in the State of California, and running thence through the city and county of San Francisco, the counties of San Mateo, Santa Clara, Monterey, Fresno, Tulare, Kern, San Bernardino and San Diego, to some point on the Colorado river, in the southeastern part of the State of California, a distance of six hundred and thirty-five and eighty-seven one hundredths miles, as near as may be; also, a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas and Pacific Railroad at or near the Colorado river, a distance of three hundred and fifty-six and seven-tenths miles, as near as may be; also a line of railroad from the town of Gilroy, in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz and Monterey to a point at or near Salinas City in said last-named county, a distance of thirty-five and one-tenth miles, as near as may be; and also such branches to said lines as the board of directors of said corporation may consider advantageous to said corporation, and direct to be established; and also from a point on said road aforesaid at or near Salinas city in the county of Monterey, southerly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin division of the said

Southern Pacific Railroad; also from the above-described line at or near San Miguel, in San Luis Obispo county, thence in a southerly direction to a point of intersection in Los Angeles county with the line of the said Southern Pacific Railroad running from Tehachapi Pass, by way of Los Angeles, to Fort Yuma; said roads passing into or through the counties of Monterey, San Luis Obispo, Kern, Santa Barbara and Los Angeles, and said roads in the aggregate being, as near as may be, four hundred and two miles in length; also, from a point in the city of Los Angeles to a point on or near the bay of San Pedro in said county, a distance of twenty-four and sixty-five one hundredths (24.65) miles; the aggregate length of all of said railroads being one thousand four hundred and fifty-four and thirty-two one hundredths miles;

And whereas, the party of the second part, the San Jose and Almaden Railroad Company, is the owner of a line of railroad commencing at or near Hillsdale on the line of the Southern Pacific Railroad, and running thence southerly and southeasterly to a point at or near the town of New Almaden, all in the county of Santa Clara, a distance of 7.8 miles, more or less;

And whereas, the party of the third part, the Pajaro and Santa Cruz Railroad Company, is the owner of a line of railroad commencing at or near the town of Pajaro, in the county of Monterey, and running thence in a general northerly and northwesterly direction to a point at or near the town of Santa Cruz, in the county of Santa Cruz, a distance of 21.2 miles, more or less; also commencing at or near Aptos, in said county of Santa Cruz, and running

thence northerly and northeasterly for a distance of five miles, more or less—the estimated length of said railroad and branch being 26.2 miles, more or less;

And whereas, the party of the fourth part, the Monterey Railroad Company, is the owner of a line of railroad commencing at or near Castroville station, in the county of Monterey, there connecting with the Southern Pacific Railroad, and running thence in a general southwesterly direction to a point at or near Monterey, in said county, a distance of fifteen and twelve hundredths miles, more or less;

And whereas, the party of the fifth part, the Monterey Extension Railroad Company, was heretofore, to wit, on the fifth day of January, 1888, duly incorporated and organized under the laws of the State of California, for the purpose of purchasing, constructing, owning, maintaining, and operating a line of railroad commencing at or near the city of Monterey, there connecting with the Monterey Railroad, and running thence in a general northwesterly direction to a point at or near Pacific Grove Retreat; thence in a general southwesterly direction to a point at or near the mouth of the Carmel river, all in the county of Monterey, a distance of sixteen miles, more or less;

And whereas, the party of the sixth part, the Southern Pacific Branch Railway Company, was heretofore, to wit, on the tenth day of April, 1886, duly incorporated and organized under the laws of the State of California for the purpose of owning, constructing, maintaining, and operating a line of steam railroad in the counties of San

Luis Obispo, Santa Barbara, Ventura, and Los Angeles, commencing at a point at or near San Miguel in the county of San Luis Obispo, there connecting with the Southern Pacific Railroad, and running thence in a general southeasterly direction through and into the aforesaid counties to a connection with said Southern Pacific Railroad at or near Saugus, in Los Angeles county, a distance of two hundred and fifty miles, more or less;

And whereas, the party of the seventh part, the San Pablo and Tulare Railroad Company is the owner of a line of railroad commencing at or near the town of Martinez, in the county of Contra Costa, and running thence in a general southeasterly direction through the county of Alameda to a point at or near the town of Tracy, in the county of San Joaquin, a distance of 47.58 miles, more or less;

And whereas, the party of the eighth part, the San Pablo and Tulare Extension Railroad Company, was heretofore, to wit, on the fifth day of February, 1887, duly incorporated and organized under the laws of the State of California for the purpose of owning, constructing, maintaining, and operating a line of steam railroad commencing at or near the town of Tracy, in the county of San Joaquin, there connecting with the San Pablo and Tulare Railroad, and running thence in a general southeasterly direction through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the Southern Pacific Railroad at or near Pampa, in the county of Kern, a distance of two hundred and sixty miles, more or less;

And whereas, the party of the ninth part, the San Ramon Valley Railroad Company, was heretofore, to wit, on the twenty-third day of April, 1888, duly incorporated and organized under the laws of the State of California, for the purpose of owning, maintaining, and operating a line of railroad commencing at a point on the line of the San Pablo and Tulare Railroad at or near Avon, in the county of Contra Costa, and running thence to a point on the Central Pacific Railroad at or near Pleasanton, in the county of Alameda, a distance of thirty-five miles, more or less;

And whereas, the party of the tenth part, the Stockton and Copperopolis Railroad Company, is the owner of a line of railroad commencing at or near the town of Stockton, in the county of San Joaquin, and running thence in a general easterly direction to a point at or near Milton, in the county of Calaveras; also, commencing at or near Peters, in the county of San Joaquin, and running thence southeasterly to a point at or near Oakdale, in the county of Stanislaus, a distance of 44.37 miles, more or less;

And whereas, the party of the eleventh part, the Stockton and Tulare Railroad Company, was heretofore, to wit, on the twenty-sixth day of November, 1887, duly incorporated and organized under the laws of the State of California for the purpose of constructing, owning, maintaining, and operating a line of steam railroad with branches thereto as follows: The main line of said railroad commencing at or near Oakdale, in the county of Stanislaus, there connecting with the Stockton and Copperopolis Railroad, and running thence in a general southeasterly direc-

tion through and into the county of Stanislaus, Merced, Fresno and Tulare, there connecting with the line of the Southern Pacific Railroad at or near the town of Poso, in Kern county, a distance of two hundred miles, more or less; the branches to said road are as follows:

First.—Commencing at or near the town of Modesto, in the county of Stanislaus, there connecting with the Central Pacific Railroad, and running thence in an easterly direction to a connection with the aforesaid main line, a distance of sixteen miles, more or less.

Second.—Commencing at or —— Merced, in the county of Merced, there connecting with said Central Pacific Railroad, and running thence easterly to a connection with the aforesaid main line, a distance of ten miles, more or less.

Third.—Commencing at or near Sycamore, in the county of Fresno, there connecting with the line of said Central Pacific Railroad, and running thence easterly to a connection with aforesaid main line, a distance of ten miles, more or less.

Fourth.—Commencing at or near Fresno, in the county of Fresno, there connecting with the main line of said Central Pacific Railroad, and running thence in a general easterly direction to a connection with the aforesaid main line, a distance of ten miles, more or less.

Fifth.—Commencing at or near Tulare, in the county of Tulare, there connecting with the line of the Southern Pacific Railroad, and running thence in a general easterly direction to a connection with aforesaid main line, a distance of sixteen miles, more or less.

Said main line and branches being two hundred and sixty-two miles in length, more or less;

And whereas, the party of the twelfth part, the San Joaquin Valley and Yosemite Railroad Company, was heretofore, to wit, on the twelfth day of February, 1886, duly incorporated and organized under the laws of the State of California, for the purpose of constructing, maintaining and operating a line of railroad commencing at a point on the line of the Southern Pacific Railroad at or near Berenda station, in Fresno county, and running thence northeasterly to a point at or near Perry's ranch, in said county, a distance of twenty-five miles, more or less;

And whereas, the party of the thirteenth part, the Los Angeles and San Diego Railroad Company, was heretofore, to wit, on the ninth day of October, 1876, duly incorporated and organized under the laws of the State of California for the purpose of constructing, owning, maintaining and operating a line of railroad and telegraph commencing at or near the city of Los Angeles, in the county of Los Angeles, and running thence in a southeasterly direction to the town of Anaheim, in said county, and thence in a southeasterly direction through said counties of Los Angeles and San Diego to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty miles, more or less;

And whereas, the party of the fourteenth part, the Los Angeles and Independence Railroad Company, is the owner of a line of railroad, commencing at or near the city of Los Angeles and running thence westerly to Santa Mon-

ica, in said county, a distance of eighteen fifty one-hundredths miles, more or lesss;

And whereas, the party of the fifteenth part, the Long Beach Whittier and Los Angeles County Railroad Company, was heretofore, to wit, on the fifteenth day of December, 1887, duly incorporated and organized under the laws of the State of California for the purpose of constructing, owning, maintaining, and operating a line of railroad, commencing at or near Long Beach, in the county of Los Angeles, and running thence in a general northeasterly direction to Whittier, thence northwesterly to Ramona, a distance of thirty miles, more or less; also commencing at Los Angeles and running thence in an easterly direction to a point on the main line of the Southern Pacific Railroad between El Monte and Puente, and thence in a northeasterly direction to a point on or near San Dimos creek, a distance of thirty miles, more or less, all in said county of Los Angeles, and aggregating sixty miles in length, more or less;

And whereas, the party of the sixteenth part, the Long Beach Railroad Company, was heretofore, to wit, on the 28th day of October, 1887, duly incorporated and organized under the laws of the State of California for the purpose of constructing, maintaining, and operating a line of steam railroad in the county of Los Angeles, commencing at a point at or near Long Beach Junction on the line of the Los Angeles and San Pedro Railroad, in said county, and running thence to the town of Long Beach, and thence in an easterly direction to the boundary line between the Ranchos Los Cerritos and Los Alamitos, in said county, a distance of four miles, more or less;

And whereas, the party of the seventeenth part, the Southern Pacific Railroad Extension Company, was heretofore, to wit, on the twentieth day of February, 1888, duly incorporated and organized under the laws of the State of California for the purpose of purchasing, constructing, owning, maintaining, and operating a line of railroad commencing at the end of the constructed line of the Southern Pacific Railroad between the towns of Wilmington and San Pedro, in the county of Los Angeles, and running thence in a general southerly direction through said town of San Pedro to a point at or near Point Fermin, thence westerly through the lands of the San Pedro Harbor Dock and Land Association to the westerly boundary of said land, all in the county of Los Angeles, and being five miles in length, more or less;

And whereas, the party of the eighteenth part, the Ramona and San Bernardino Railroad Company, was heretofore, to wit, on the twenty-fourth day of April, 1888, duly incorporated and organized under the laws of the State of California, for the purpose of constructing, owning, and operating a line of railroad at or near Ramona, in Los Angeles county, to a point at or near Crafton, in the county of San Bernardino, a distance of 71 miles, more or less;

And whereas, said parties, and all of them, now are, and ever since their organization and incorporation have been, railroad corporations duly and lawfully organized and existing as such under the laws of the State of California, relating to the formation and existence of railroad corporations;

And whereas, said respective parties believe that a consolidation and amalgamation of their capital stocks, their debts, properties, assets and franchises will be mutually advantageous;

And whereas, the respective boards of directors of said corporations, parties hereto, have agreed upon the consolidation and amalgamation of said corporations, their debts, properties, assets, and franchises in the following manner, to wit:

First.—That the said amalgamation and consolidation shall be made at once, and that the name and style of the amalgamated and consolidated corporation shall be

"Southern Pacific Railroad Company."

That it shall continue in existence for a period of fifty years from the date of these articles.

Second.—That the several capital stocks, debts, properties, assets, and franchises, held, owned, or possessed, by each of said corporations, shall be vested in said amalgamated and consolidated corporation, the Southern Pacific Railroad Company, as fully as the same are now severally held and enjoyed by them respectively, subject, however, to all the conditions, stipulations, contracts, liens, claims, and charges thereon, and to all debts of said respective corporations.

Third.—That the object and purposes, the capital stock, the board of directors, and the principal place of business shall be as expressed in the articles of incorporation hereinafter set out.

Fourth.—That the stockholders of each of said corporations, parties hereto, shall have issued to them the same

number of shares of stock of the capital stock of the amalgamated and consolidated corporation as they own and hold of the capital stock of the respective corporations of which they are members, and upon the same terms and conditions;

And whereas, the holders of more than three-fourths in value of all the stock of each of said respective corporations, parties hereto, have given written consent to the amalgamation and consolidation of said corporations in the manner agreed upon as aforesaid by their respective boards of directors, and for the purposes expressed in the articles of incorporation following:

Now, therefore, know all men by these presents, that the parties hereto, in pursuance of the laws of the State of California, in such cases made and provided, do hereby amalgamate and consolidate their capital stock, debts, properties, assets, and franchises for the uses and purposes aforesaid, and do hereby vest the same in the said consolidated and amalgamated corporation, the Southern Pacific Railroad Company, and in pursuance of said consolidation and amalgamation, and in order more fully to carry the same into force and effect, do hereby adopt the following articles of incorporation:

I.

The name of said amalgamated and consolidated corporation shall be

"Southern Pacific Railroad Company."

II.

The object and purpose of said amalgamated and consolidated corporation shall be to construct, own, operate,

and maintain lines of steam railroad and telegraph within the State of California, and to carry passengers and freights on and over said lines of railroad for hire.

III.

The kinds of railroads to be owned and operated are single and double track steam railroads, having either a standard gauge or narrow gauge.

IV.

The places to and from which said lines of railroad are to run are as follows:

First.—Commencing at the city and county of San Francisco, in the State of California, and running thence through the city and county of San Francisco, the counties of San Mateo, Santa Clara, San Benito, Monterey, Fresno, Tulare, Kern and San Bernardino, by way of Mojave, to Needles, on the Colorado river, in the county of San Bernardino, State of California, a distance of six hundred and thirty-five and eighty-seven one hundredths miles, as near as may be.

Also a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to Yuma, in the county of San Diego, a distance of three hundred and fifty-six and seven tenths miles, as near as may be; also a line of railroad from the town of Gilroy, in the county of Santa Clara, in said State, passing through said county and the counties of Santa Cruz, San Benito, and Monterey, to a point at or near Salinas City, in said last-named county, a distance of thirty-five and one-tenth miles, as near as may be; and also from a point on said road aforesaid, at

or near Salinas City, in the county of Monterey, southerly to a point in Kern county, south of Tulare Lake, intersecting the San Joaquin Division of the said Southern Pacific Railroad, said road passing into or through the counties of Monterey, San Luis Obispo and Kern, and being as near as may be, two hundred miles in length; also commencing at or near Hillsdale, in Santa Clara county, and running thence to a point at or near New Almaden, in Santa Clara county, a distance of 7.8 miles, more or less; the aggregate length of all of said railroads being one thousand two hundred and thirty-five and forty-seven one hundredths miles.

Second.—Commencing at or near San Miguel, in the county of San Luis Obispo, and running thence southerly through the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a point at or near Saugus, in Los Angeles county, on the line of the Southern Pacific Railroad, a distance of two hundred and fifty miles, more or less.

Also commencing at or near Castroville, in Monterey county, and running thence southwesterly to a point at or near Monterey, thence northeasterly to Pacific Grove Retreat, and thence southwesterly to a point at or near the mouth of the Carmel river, a distance of 31.12 miles, more or less, and all in the county of Monterey.

Also commencing at or near Pajaro in Monterey county, and running thence northerly and northwesterly to a point at or near Santa Cruz, in Santa Cruz county, a distance of 21.2 miles, more or less.

Also commencing at or near Aptos, in Santa Cruz county, and running thence northerly and northeasterly to a point at or near Loma Prieta in the same county, a distance of five miles, more or less, aggregating 307.32 miles, more or less.

Third.—Commencing at or near Martinez, in Contra Costa county, and running easterly and southeasterly through the county of Alameda, via Antioch, to a point at or near Tracy, in San Joaquin county, and thence in a general southeasterly direction through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the Southern Pacific Railroad at or near Pampa, in the county of Kern, a distance of 307.58 miles, more or less.

Fourth.—Commencing at or near the city of Stockton and running thence easterly and northeasterly to or near Milton, in the county of Calaveras, a distance of 25.68 miles, more or less.

Also commencing at or near Peters, in the county of San Joaquin, and running thence in a southeasterly direction through the counties of Stanislaus, Merced, Fresno, Tulare, to a connection with the Southern Pacific Railroad at or near Poso, in Kern county, a distance of 218.69 miles, more or less, with a branch from said last-mentioned line westerly to or near Modesto, in Stanislaus county, a distance of about sixteen miles, a branch westerly to a point on Central Pacific Railroad at or near Merced, in Merced county, a distance of about ten miles; a branch westerly to a connection with the Central Pacific Railroad at or near Sycamore, in Fresno county, a dis-

tance of about ten miles; a branch westerly to a connection with the Central Pacific Railroad at or near Fresno, in Fresno county, a distance of about ten miles, and a branch westerly to a connection with the Southern Pacific Railroad at or near Tulare, in Tulare county, a distance of about fifteen miles, aggregating in all 306.37 miles, more or less.

Fifth.—Commencing at or near Berenda, in the county of Fresno, running thence northeasterly to a point at or near Perry's ranch in said county, a distance of twenty-five miles, more or less.

Sixth.—Commencing at or near Los Angeles, in the county of Los Angeles, and running thence southeasterly to Anaheim and Santa Ana, in said county, and thence southeasterly through the counties of Los Angeles and San Diego to a point at or near the city of San Diego, a distance of 140 miles, more or less.

Seventh.—Commencing at or near Los Angeles, in the county of Los Angeles, and running thence northwesterly to Santa Monica, a distance of 18.50 miles, more or less.

Eighth.—Commencing at or near Los Angeles, in the county of Los Angeles, and running thence southwesterly to San Pedro, thence to a point at or near Point Fermin, thence westerly through the lands of the San Pedro Harbor Dock and Land Association to a point at or near the westerly boundary of said lands, all in said county of Los Angeles, and being 29.65 miles in length, more or less.

Ninth.—Commencing at or near Long Beach, in the county of Los Angeles, and running thence in a general northeasterly direction to Whittier, thence northwesterly

to a point at or near Ramona. Also commencing at or near Los Angeles, running thence easterly to a point on the main line of the Southern Pacific Railroad between El Monte and Puente, and thence in a northeasterly direction to a point on or near San Dimos creek; all in said county of Los Angeles, and being sixty miles in length, more or less.

Tenth.—Commencing at or near Long Beach Junction, in the county of Los Angeles, and running thence to the town of Long Beach, and thence in an easterly direction to the boundary line between the Rancho Los Cerritos and Rancho Los Alamitos, in the county of Los Angeles, a distance of four miles, more or less.

Eleventh.—Commencing at or near Ramona, in Los Angeles county, and running thence to a point at or near Crafton, in the county of San Bernardino, a distance of seventy-one miles, more or less.

Twelfth.—Commencing at a point on the line of the San Pablo and Tulare Railroad at or near Avon, in the county of Contra Costa, and running thence to a point on the Central Pacific Railroad, at or near Pleasanton, in the county of Alameda, a distance of thirty-five miles, more or less.

Said lines of railroad lying all within the State of California, and being composed of the lines of the several railroads hereinbefore mentioned and described. Together with such other and further appendages and adjuncts, including branches and spur tracks, in the counties hereinbefore named, or in one or more thereof, as the board of directors of said consolidated and amalgamated company may direct from time to time.

V.

The estimated length of said railroad and its branches in the aggregate is two thousand five hundred and thirty-nine and eighty-nine one hundredths (2,539.89) miles, as near as may be.

VI.

The place where the principal business of said corporation is to be transacted is the city and county of San Francisco, State of California.

VII.

The term for which said corporation is to exist is fifty years from the date hereof.

VIII.

The number of directors of said corporation is to be seven, and the names and residence of those appointed for the first year are as follows:

Names.	Residence.
Chas. F. Crocker,	San Francisco, California.
Timothy Hopkins,	San Mateo County, California.
Charles Mayne,	San Francisco, California.
W. V. Huntington,	San Francisco, California.
N. T. Smith,	San Francisco, California.
J. L. Willcutt,	Oakland, California.
A. N. Towne,	San Francisco, California.

IX.

The capital stock of said corporation is to be one hundred and forty-two million nine hundred and ninety thousand (142,990,000) dollars, divided into one million, four hundred and twenty-nine thousand nine hundred (1,429,900) shares, of the par value of one hundred dollars each.

X.

The amount of the capital stock actually subscribed in each of said corporations, parties hereto, at the time of their formation, and the names of the persons by whom the same was subscribed and the number of shares subscribed to, and then held by each, was as set out in the original articles of incorporation of the several companies now consolidated and amalgamated, and the same was, and now is, more than one thousand dollars per mile for each mile of each of said roads.

XI.

That the capital stock of each of said corporations there had at the time of their formation (where the same was required by law) been actually paid to the respective treasurers thereof, the amounts specified in their original articles of incorporation verified by the affidavits attached to the copies thereof, filed in the office of secretary of State, of the State of California, and the amounts so paid in were in each case ten per cent of the subscribed capital stock.

In witness whereof, the said parties have caused these presents to be signed by their respective presidents or vice-presidents and secretaries, and their corporate seals to be hereunto affixed, pursuant to resolutions of their respective boards of directors, this fourth (4th) day of May, A. D. 1888.

[Seal] CHAS. CROCKER,

President Southern Pacific Railroad Company.

J. L. WILLCUTT,

Secretary Southern Pacific Railroad Company.

[Seal] CHAS. F. CROCKER,
President San Jose & Almaden Railroad Company.
J. L. WILLCUTT,
Secretary San Jose & Almaden Railroad Company.
[Seal] CHAS. F. CROCKER,
President Pajaro & Santa Cruz Railroad Company.
J. L. WILLCUTT,
Secretary Pajaro & Santa Cruz Railroad Company.
[Seal] CHAS. CROCKER,
President Monterey Railroad Company.
J. L. WILLCUTT,
Secretary Monterey Railroad Company.
[Seal] CHAS. F. CROCKER,
President Monterey Extension Railroad Company.
J. L. WILLCUTT,
Secretary Monterey Extension Railroad Company.
[Seal] CHAS. F. CROCKER,
President Southern Pacific Branch Railway Company.
J. L. WILLCUTT,
Secretary Southern Pacific Branch Railway Company.
[Seal] CHAS. CROCKER,
Vice-president San Pablo & Tulare Railroad Company.
W. V. HUNTINGTON,
Secretary San Pablo & Tulare Railroad Company.
[Seal] CHAS. F. CROCKER,
President San Pablo & Tulare Extension Railroad Company.
W. V. HUNTINGTON,
Secretary San Pablo & Tulare Extension Railroad Company.

[Seal] JAS. P. BROWN,
President San Ramon Valley Railroad Company.
D. D. STUBBS,
Secretary San Ramon Valley Railroad Company.
[Seal] CHAS. F. CROCKER,
Vice-president Stockton & Copperopolis Railroad Company.
W. V. HUNTINGTON,
Secretary Stockton & Copperopolis Railroad Company.
[Seal] CHAS. F. CROCKER,
Vice-president Stockton & Tulare Railroad Company.
W. V. HUNTINGTON,
Secretary Stockton & Tulare Railroad Company.
[Seal] CHAS. F. CROCKER,
President San Joaquin Valley & Yosemite Railroad Company.
W. V. HUNTINGTON,
Secretary San Joaquin Valley & Yosemite Railroad Company.
[Seal] CHAS. F. CROCKER,
President Los Angeles & San Diego Railroad Company.
J. L. WILLCUTT,
Secretary Los Angeles & San Diego Railroad Company.
[Seal] CHAS. F. CROCKER,
President Los Angeles & Independence Railroad Company.
F. S. DOUTY,
Secretary Los Angeles & Independence Railroad Company.

[Seal] CHAS. F. CROCKER,
President Long Beach, Whittier & Los Angeles Railroad Railroad Company.
W. V. HUNTINGTON,
Secretary Long Beach, Whittier & Los Angeles County Railroad Company.
[Seal] CHAS. F. CROCKER,
President Long Beach Railroad Company.
F. S. DOUTY,
Secretary Long Beach Railroad Company.
[Seal] CHAS. CROCKER,
President Southern Pacific Railroad Extension *Railroad* Company.
J. L. WILLCUTT,
Secretary Southern Pacific Railroad Extension Company.
[Seal] G. L. LANSING,
President Ramona & San Bernardino Railroad Company.
C. E. GREEN,
Secretary Ramona & San Bernardino Railroad Company.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the sec-

retary, of the Southern Pacific Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California, }
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the San Jose and Almaden Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the Pajaro and Santa Cruz Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and annexed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the Monterey Railroad Company that executed the within instrument and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the Monterey Extension Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me,

E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the Southern Pacific Branch Railway Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the vice-president, and W. V. Huntington, known to me to be the secretary, of the San Pablo and Tulare Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and

affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and W. V. Huntington, known to me to be the secretary, of the San Pablo and Tulare Extension Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and

county of San Francisco, duly commissioned and qualified, personally appeared Jas. P. Brown, known to me to be the president, and D. D. Stubbs, known to me to be the secretary, of the San Ramon Valley Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the vice-president, and W. V. Huntington, known to me to be the secretary, of the Stockton and Copperopolis Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the vice-president, and W. V. Huntington, known to me to be the secretary, of the Stockton and Tulare Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and W. V. Huntington, known to me to be the secretary, of the San Joaquin Valley and Yosemite Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the Los Angeles and San Diego Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco.) ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and

county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and F. S. Douty, known to me to be the secretary, of the Los Angeles and Independence Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and W. V. Huntington, known to me to be the secretary, of the Long Beach, Whittier, and Los Angeles County Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles F. Crocker, known to me to be the president, and F. S. Douty, known to me to be the secretary, of the Long Beach Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president, and J. L. Willcutt, known to me to be the secretary, of the Southern Pacific Railroad Extension Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California, }
City and County of San Francisco. } ss.

On this, the fourth (4th) day of May, in the year one thousand eight hundred and eighty-eight, before me, E. B. Ryan, a notary public in and for the said city and county of San Francisco, duly commissioned and qualified, personally appeared G. L. Lansing, known to me to be the president, and Chas. E. Green, known to me to be the secretary, of the Ramona and San Bernardino Railroad Company, that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Notarial Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Southern Pacific Railroad Company, party of the first part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and con-

solidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.
W. V. HUNTINGTON.
J. L. WILLCUTT.
C. P. HUNTINGTON.
TIMOTHY HOPKINS.
CHAS. CROCKER.
A. N. TOWNE.
[S. P. Co. Seal] SOUTHERN PACIFIC COMPANY.
By G. L. LANSING, Secretary.
N. T. SMITH.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY, Secretary.
LELAND STANFORD,
By ARIEL LATHROP,
Atty. in fact.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the San Jose and Almaden Railroad Company, party of the second part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe

to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.
J. L. WILLCUTT.
N. T. SMITH.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
ARIEL LATHROP.
A. C. BASSETT.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Pajaro and Santa Cruz Railroad Company, party of the third part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.
N. T. SMITH.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.,
By F. S. DOUTY,
Secretary.
A. C. BASSETT.
TIMOTHY HOPKINS.
J. L. WILLCUTT.
C. E. GREEN.
S. T. GAGE.
CREED HAYMOND.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Monterey Railroad Company, party of the fourth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.

W. V. HUNTINGTON.

J. L. WILLCUTT.

[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.,

By F. S. DOUTY,

Secretary.

C. P. HUNTINGTON.

TIMOTHY HOPKINS.

CHAS. CROCKER.

N. T. SMITH.

LELAND STANFORD.

By ARIEL LATHROP,

Atty. in fact.

Mrs. M. F. S. SEARLES,

By TIMOTHY HOPKINS,

Atty. in fact.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Monterey Extension Railroad Company, party of the fifth part to the foregoing articles of amalgama-

tion and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.
W. V. HUNTINGTON.
TIMOTHY HOPKINS.
CHAS. CROCKER.
N. T. SMITH.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Southern Pacific Branch Railway Company, party of the sixth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 188.

CHAS. F. CROCKER.
W. V. HUNTINGTON.
W. E. BROWN.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
TIMOTHY HOPKINS.
J. L. WILLCUTT.
N. T. SMITH.
S. T. GAGE.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the San Pablo and Tulare Railroad Company, party of the seventh part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation and consolidation.

Done this fourth day of May, 1888.

[W. D. Co. Seal] WESTERN DEVELOPMENT CO.
By F. S. DOUTY,
President.
CHAS. F. CROCKER.
TIMOTHY HOPKINS.
C. P. HUNTINGTON.
LELAND STANFORD.
By ARIEL LATHROP,
Atty. in fact.
W. V. HUNTINGTON.
CHAS. CROCKER.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the San Pablo and Tulare Extension Railroad Company, party of the eighth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stock-

holders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.
TIMOTHY HOPKINS.
W. V. HUNTINGTON.
W. E. BROWN.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
C. E. GREEN.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the San Ramon Valley Railroad Company, party of the ninth part, to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

A. J. TREAT.
G. L. LANSING.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
D. D. STUBBS.
JAS. P. BROWN.
W. L. BROWN.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Stockton and Copperopolis Railroad Company, party of the tenth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

W. E. BROWN.
CHAS. F. CROCKER.
TIMOTHY HOPKINS.
C. P. HUNTINGTON.
W. V. HUNTINGTON.
E. H. PARDEE.
N. T. SMITH.
LELAND STANFORD,
By ARIEL LATHROP,
Attorney in fact.
Mrs. M. F. S. SEARLES,
By TIMOTHY HOPKINS,
Atty. in fact.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Stockton and Tulare Railroad Company, party of the eleventh part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to

the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

W. E. BROWN.
LELAND STANFORD,
By ARIEL LATHROP,
Atty. in fact.
CHAS. F. CROCKER.
TIMOTHY HOPKINS.
W. V. HUNTINGTON.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the San Joaquin Valley and Yosemite Railroad Company, party of the twelfth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

CHAS. F. CROCKER.
TIMOTHY HOPKINS.
W. V. HUNTINGTON.
S. T. GAGE.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
C. E. GREEN.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Los Angeles and San Diego Railroad Company, party of the thirteenth part, to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

[W. D. Co. Seal] WESTERN DEVELOPMENT CO.,
By F. S. DOUTY,
President.

C. P. HUNTINGTON.
TIMOTHY HOPKINS.
CHAS. CROCKER.
J. L. WILLCUTT.
N. T. SMITH.
LELAND STANFORD,
By ARIEL LATHROP,
Atty. in fact.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Los Angeles and Independence Railroad Company, party of the fourteenth part to the foregoing articles of amalgamation and consolidation, did, prior to said

amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

[W. D. Co. Seal] WESTERN DEVELOPMENT CO.,
By F. S. DOUTY,
President.

C. P. HUNTINGTON.
W. V. HUNTINGTON.
TIMOTHY HOPKINS.
F. S. DOUTY.
CHAS. CROCKER.
LELAND STANFORD,
By ARIEL LATHROP,
Attorney in fact.
CHAS. F. CROCKER.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Long Beach, Whittier, and Los Angeles County Railroad Company, party of the fifteenth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles

of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

LELAND STANFORD,
By ARIEL LATHROP,
Atty. in fact.
CHAS. F. CROCKER.
W. V. HUNTINGTON.
TIMOTHY HOPKINS.
W. E. BROWN.
[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.,
By F. S. DOUTY,
Secretary.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Long Beach Railroad Company, party of the sixteenth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation and consolidation.

Done this fourth day of May, 1888.

[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
F. S. DOUTY.
TIMOTHY HOPKINS.
W. E. BROWN.
C. E. GREEN.
CHAS. F. CROCKER.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Southern Pacific Railroad Extension Company, party of the seventeenth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stockholders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

[P. I. Co. Seal] PACIFIC IMPROVEMENT CO.
By F. S. DOUTY,
Secretary.
TIMOTHY HOPKINS.
W. V. HUNTINGTON.
CHAS. CROCKER.
W. E. BROWN.
LELAND STANFORD,
By ARIEL LATHROP,
Atty. in fact.

This is to certify that we, the undersigned, being the holders of more than three-fourths in value of all stock of the Ramona and San Bernardino Railroad Company, party of the eighteenth part to the foregoing articles of amalgamation and consolidation, did, prior to said amalgamation and consolidation, assent, and do hereby assent thereto, and that we do hereby, as such stock-

holders, subscribe to the foregoing articles of association, incorporation, amalgamation, and consolidation.

Done this fourth day of May, 1888.

G. L. LANSING.
C. E. GREEN.
JAS. P. BROWN.
CHAS. G. LATHROP.
FREDK. MADGE.

State of California,
City and County of San Francisco. } ss.

I, WM. J. RUDDICK, county clerk of the city and county of San Francisco, State of California, hereby certify the foregoing to be a full, true, and correct copy of the original articles of association, incorporation, amalgamation, and consolidation of the Southern Pacific Railroad Company with the San Jose and Almaden and sixteen other railroad companies, filed in my office on the twelfth (12th) day of May, A. D. 1888.

Attest my hand and my official seal this twelfth day of May, A. D. 1888.

[Seal]

WM. J. RUDDICK,
County Clerk.
By Wm. A. Davies,
Deputy County Clerk.

State of California, Department of State.

I, E. G. Waite, secretary of State, of the State of California, do hereby certify that I have carefully compared the annexed copy of articles of association, incorporation, amalgamation, and consolidation of the Southern Pacific Railroad Company with the San Jose and Almaden and sixteen other railroad companies with the certified copy of the original now on file in my office, and that the same is a correct transcript therefrom, and of the whole thereof. Also that this authentification is in due form and by the proper officer.

Witness my hand and the great seal of State, at office in Sacramento, California, the twenty-fourth day of April, A. D. 1894.

[Seal] E. G. WAITE,
Secretary of State.
By Wm. H. Stevens,
Deputy.

[Endorsed]: Plffs. Ex. 13. L. A. L. Articles of association, incorporation, amalgamation, and consolidation of the Southern Pacific Railroad Company with the San Jose and Almaden and sixteen other railroad companies. Dated May 4th, 1888. (Endorsed:) Filed in the office of the county clerk of the city and county of San Francisco, State of California, this 12 day of May, A. D. 1888. Wm.

J. Ruddick, County Clerk. By Wm. A. Davies, Deputy Clerk. Department of State, California. Filed in the office of the secretary of State, the 14th day of May, A. D. 1888. W. C. Hendricks, Secretary of State. By H. B. Davidson, Deputy. Record Book, 65, page 90.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al., No. 587. Plaintiff's Exhibit No. 13. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al., No. 600. Plaintiffs' Exhibit No. 5. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

W. W. B.

A. M.

E. H. H.

Defendants' Exhibit No. 9A.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Aug. 15, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original, with its endorsements, on file in this department.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal of Department of the Interior.]

WM. H. SIMS.
Acting Secretary of the Interior.

E. W.

Office of the Southern Pacific R. R. Co.,

No. 54 William Street,

New York, March 22, 1871.

Hon. C. Delano, Secretary of the Interior, Washington, D. C.

Sir: Herewith find a map of the general route of the Southern Pacific Railroad, of California, as near as may be, authorized by the 23d section of an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road and for other purposes," approved March 3, 1871, as adopted by the said Southern Pacific Railroad Company, of California, from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river.

Will you please file the map in the office of the commissioner of the general landoffice in the department of the interior and cause the lands to be withdrawn from pre-

emption, entry, and sale along the line of said road according to the provisions of said act of Congress?

I have the honor to be, very respectfully,

Your obedient servant,

CHAS. CROCKER,

President Southern Pacific Railroad Co.

[Endorsements]: Southern Pacific, Department of the Interior. Received March 24, 1871. Dated March 22, 1871. From Charles Crocker, Pres. Southern Pac. R. R. Co., 54 William St., N. Y. Subject. Files map, and asks for withdrawal of lands along the line of said road from Tehachapi Pass, by Los Angeles, to the Texas Pac. R. R., near the Colorado river. Action. March 27, '71, asked whether the Co. had conformed to State law. Directed Comr. G. L. O. to withdraw lands and so advised Mr. Crocker. April 3, '71. Registered 1, 310. Filed ———.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 31A," in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, and "Defendants' Exhibit No. 9A," in the case entitled The United States of America, Complainants, vs.

The Southern Pacific Railroad Company, et al., Defendants, No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit 9A. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 31A. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 9B.

A. M.
E. H. H.
W. W. B.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Aug. 15, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal of Department of the Interior.]

WM. H. SIMS,
Acting Secretary of the Interior.

E. W.

Department of the Interior.

Washington, D. C., April 3, 1871.

Sir: The 23d section of the act to incorporate the Texas Pacific Railroad, and for other purposes, approved March 3, 1871, authorizes "the Southern Pacific Railroad Company to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river," with the same rights and privileges, and subject to the same limitations and restrictions as were granted to said Southern Pacific Railroad Company, of California, by the act July 27, 1866.

The accompanying map designating the route of said road from Tehachapi Pass, by way of Los Angeles, to the Colorado river, has been filed by Charles Crocker, Esq., president of the company, with a request that the lands may be withdrawn, as provided in the 12th section of said act, "from pre-emption, private entry, and sale."

You will issue the necessary order for a withdrawal of the lands, within twenty miles, and along the route designated on said map.

Very respectfully,

Your ob't servant,

WALTER H. SMITH,

Acting Secretary.

Hon. Willis Drummond, Commissioner of the General Landoffice.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 31B" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company, et al., Defendants, No. 600, and "Defendants' Exhibit No. 9B" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company, et al., No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal]

WM. M. VAN DYKE,

Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co., et al. No. 587. Defendants' Exhibit No. 9B. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 31B. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 29.

Defts. Ex. 256. Longley.

F. W. J. M.

S. S. M. (4-207a.)

Department of the Interior.

General Landoffice,

Washington, D. C., Aug 8, 1895.

I, E. F. Best, acting commissioner of the general landoffice, do hereby certify that the annexed copies are true and literal exemplifications of the originals on file or of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] E. F. BEST,

Acting Commissioner of General Landoffice.

[Endorsed]: U. S. vs. S. P. Co. No. 600. Defendants' Exhibit No. 256. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Department of the Interior.

General Landoffice,

April 21, 1871.

Register and Receiver, Visalia, California.

Gentlemen: By act of March 3, 1871, sec. 23, the Southern Pacific Railroad Co. is authorized to construct a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific railroad at or near the Colorado river, with the same grant of lands, etc., as were granted to said company by act of 27th July, 1866.

The company having filed a diagram designated the general route of said road, I herewith transmit a map showing thereon that part of the line falling in your district together with the 20 and 30 mile limits of the grant to the line of withdrawal by corresponding limits for the Southern Pacific road under the act of 1866, and you are hereby directed to withhold from sale or location, pre-emption, or homestead entry all the odd-numbered sections falling within those limits.

The even-numbered sections within the limit of 20 miles you will increase in price to $2.50 per acre, and will dispose of them at that price, but only under the pre-emption and homestead laws.

When pre-emption or homestead entries may have had legal inception prior to the receipt of this order, the settlers may, of course, prove their claims, either upon odd or even numbered sections at the rate of $1.25 per acre.

The even-numbered sections between the 20 and 30 mile or indemnity limits are not affected by this communication.

This order will take effect from the date of its receipt by you, and you will please acknowledge receipt by date.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

[Endorsed]: U. S. vs. S. P. R. R. Co. No. 587. Defendants' Exhibit No. 29. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. vs. S. P. Co. No. 600. Defendants' Exhibit No. 311. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 30.

Department of the Interior.

General Land Office,

April 21st, 1871.

Register and Receiver, Los Angeles, California.

Gentlemen: By act of March 3, 1871, sec. 23, the Southern Pacific Railroad Co. is authorized to construct a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same grant of lands, etc., as were granted to said company by act of July 27, 1866.

The company having filed a diagram designating the general route of said road, I herewith transmit a map showing thereon the line of route, as also the 20 and 30

mile limits of the grant to the line of withdrawal for the Southern Pacific road, under the act of 1866, and you are hereby directed to withhold from sale or location, pre-emption, or homestead entry all the odd-numbered sections falling within those limits.

The even-numbered sections within the limit of 20 miles you will increase in price to $2.50 per acre, and will dispose of them at that price, but only under the pre-emption and homestead laws.

When pre-emption or homestead entries may have had legal inception prior to the receipt of this order, the settlers may of course prove their claims either upon odd or even-numbered sections at the rate of $1.25 per acre.

This order will take effect from the date of its receipt by you, and you will please acknowledge receipt by date.

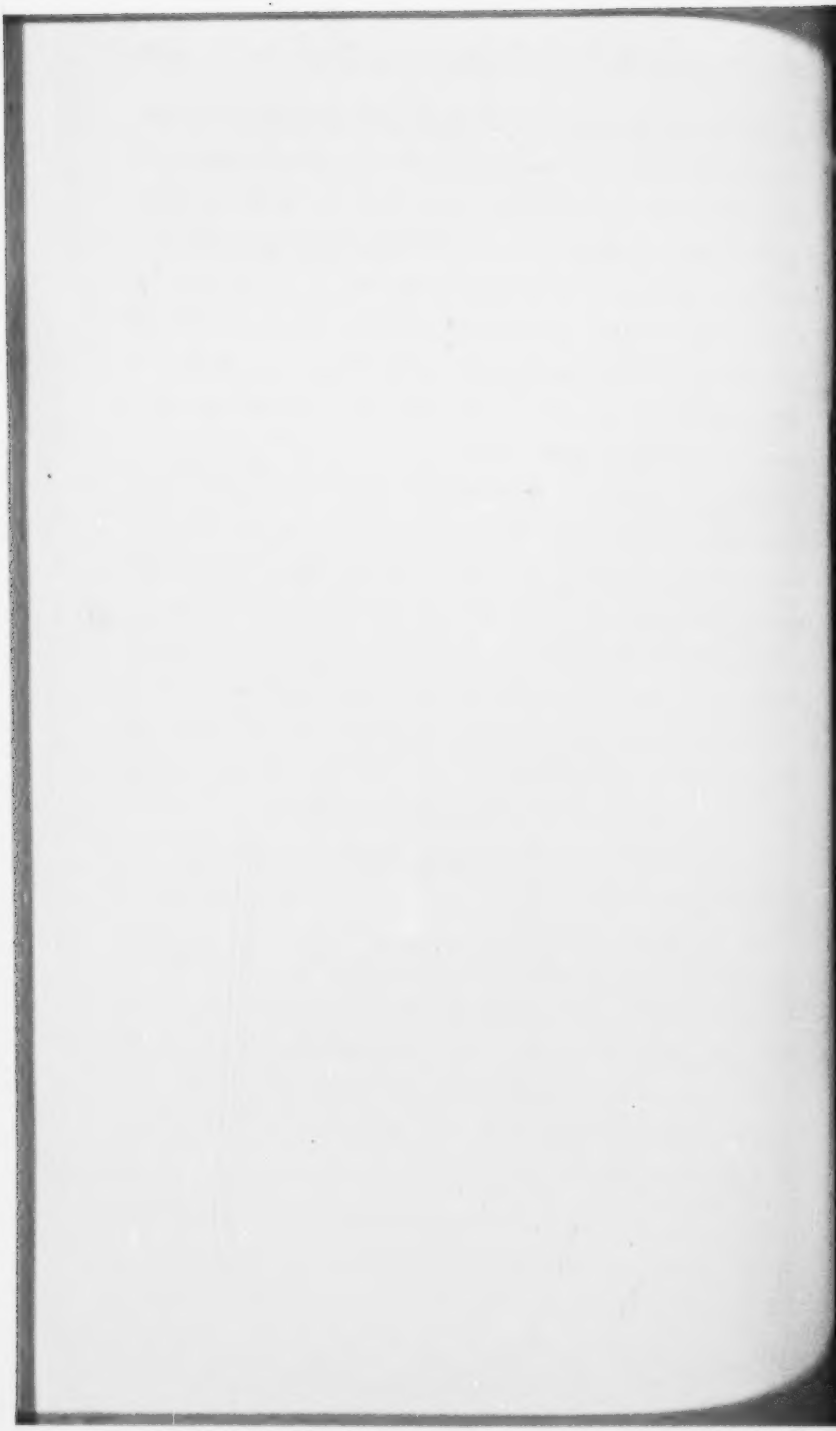
The even-numbered sections between the 20 and 30 mile or indemnity limits are not affected by this order.

Very respectfully,

WILLIS DRUMMOND,

Commissioner.

[Endorsed]: U. S. vs. S. P. Co. No. 587. Defendants' Exhibit No. 30. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. U. S. vs. S. P. Co. No. 600. Defendants' Exhibit No. 312. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.



TS EXHIBIT No 31
ongley,
cial Examiner.

LED
19 1895.
AN DYKE Clerk

FOLD OUT IS TOO LARGE TO BE FILMED

1628

Defendants' Exhibit No. 32.

A. M.
E. H. H.
M. C. McN.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 10, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal of Department of the Interior.]

JNO. M. REYNOLDS,
Acting Secretary of the Interior.

E. W.

Department of the Interior.

Washington, D. C.,

17th February, 1874.

Messrs. Foulke, Sullivan & Brown. 43-685. Southern Pacific. Exmn. of 50 miles.

Gentlemen: Application having been made by the president of the Southern Pacific Railroad Company for the examination by commissioners of an additional section of 50 miles, of the completed line of said company's road, commencing at or near Fernando, the initial point in the S. W. ¼ sec. 3, T. 2 N., R. 15 W. San Bernardino base and meridian, and ending at a point in S. W. ¼ sec. 26, T. 1 S., R. 9

W., you will, under your appointment by the President of the United States as commissioners, examine and report upon the same.

A map and profile of the road examined will be transmitted with your report. I enclose herewith forms of certificates to be made on such map and profile by the president and chief engineer of the company.

You will be guided in the discharge of your duties by the "Circular of Instructions for the Examination of Railroads," dated 28th April, 1871, copy herewith.

The 21st section of the act of 27th July, 1866 (14 Stat. 299), fixes your compensation at $10 per day for each day actually and necessarily employed, and 10 cents per mile for each mile actually and necessarily traveled in discharging the duties required of you, which per diem and mileage shall be in full compensation for your services, and must be paid by the company. Duplicates of the receipts given by you, on payment thereof, will be inclosed with the report.

Be pleased to state clearly in your report whether or not this portion of road is in all respects "first-class," and whether you recommend its acceptance. Also inform the department if any improvement has been made in the ballast of former sections examined.

Very respectfully,
Your ob't servant,
C. DELANO,
Secretary.

L. M. Foulke, Esq., San Francisco, Cal.,
Eugene L. Sullivan, Esq., San Francisco, Cal.,
Calvin Brown, Esq., Mare Island, Cal.,
Comm's. on Southern Pac. R. R.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 313" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, and "Defendants' Exhibit No. 32" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, before Leo Longley, special examiner, and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit No 32. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 313. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 33.

A. M.
M. C. McN.
E. H. H.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 10, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal of Department of the Interior.]

JNO. M. REYNOLDS,
Acting Secretary of the Interior.

E. W.

Department of the Interior.

Washington, D. C.,
1st October, 1875.

Messrs. Foulke, Brown & Sullivan, 49-221. Southern Pac. 50 addnl. mls. completed.

Gentlemen: It having been reported by the vice-president of the Southern Pacific Railroad Company that 50 additional miles of that road are completed and ready for examination by commissioners, you will be pleased to examine it as soon as practicable, reporting result to this department as usual, under instructions formerly given. This portion of road commences "at a point in N. E. ¼, section 24, T. 1 S., R. 9 W., San Bernardino

base and meridian, and running thence in a southeasterly direction, terminates at a point in the N. E. ¼, section 27, T. 1 S., R. 9 W., San Bernardino base and meridian, and running thence in a southeasterly direction, terminates at a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., same base and meridian."

Very respectfully,

R. B. COWEN,

Acting Secretary.

Messrs. Foulke, Brown & Sullivan,
Comrs. Southern Pac. R. R.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 314, Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. No. 587. Defendants' Exhibit No. 33. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office, November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 314" in the case entitled The United States of America, Complainants, vs. The

Southern Pacific Railroad Company et al., Defendants, No. 600, and "Defendants' Exhibit No. 33" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court, this 8th day of May, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 34.

A. M.
E. H. H.
M. C. McN.

UNITED STATES OF AMERICA.
Department of the Interior.
Washington, D. C., Sept. 10, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal of Department of the Interior.] JNO. M. REYNOLDS,
Acting Secretary of the Interior.

E. W.

Department of the Interior.

Washington, D. C., 17th June, 1876.

Telegram, 52-139. Foulke, Brown & Sullivan, Commr's. So. Pac. R. R. Co.

L. M. Foulke, Calvin Brown and Eugene L. Sullivan, Commissioners, San Francisco, California:

Proceed to examination of fifty additional miles of branch line of Southern Pacific Railroad.

Z. CHANDLER,
Secretary.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office, November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 315" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, and "Defendants' Exhibit No. 34" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal]

WM. M. VAN DYKE,
Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit No. 34. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 315. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 35.

A. M.

E. H. H.

M. C. McN.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 10, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department in the interior to be affixed, the day and year first above written.

[Seal of Department of the Interior.]

JNO. M. REYNOLDS,
Acting Secretary of the Interior.

E. W.

Department of the Interior.

Washington, D. C., 6th February, 1877.

Messrs. Foulke, Brown & Sullivan, 55 155. Southern Pacific R. R. R. Completion of 50 miles of branch line.

Gentlemen: The president of the Southern Pacific Railroad Company of California has notified this department of the completion of another section of the railroad which they were authorized to build by the 23d section of the act approved 3d March, 1871 (16 Stat. 579). Said section begins at or near San Fernando, at a point in the N. W. ¼ of sec. 3, T. 2, N., R. 15 W., San Bernardino base and meridian, runs in a northerly direction, and ends at a point in the N. E. ¼ of sec. 17, T. 11 N., R. 12 W., same base and meridian, a distance of 50 miles.

You will proceed to examine said section, under instructions heretofore given you.

Very respectfully,

Z. CHANDLER,
Secretary.

Messrs. L. M. Foulke, Calvin Brown and E. L. Sullivan,
Comrs., San Francisco, Cal.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify that I have carefully compared the fore-

going papers with an original exhibit filed in my office, November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 316" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, and "Defendants' Exhibit No. 35" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibt No. 35. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 316. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 36.

A. M.
E. H. H.
M. C. M. N.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 10, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal of Department of the Interior.]

JNO. M. REYNOLDS,
Acting Secretary of the Interior.

E. W.

Department of Oct. 27, 1877. the Interior.

Executive Mansion,
Washington, D. C., Oct. 27, 1877.

By virtue of the authority vested in the President of the United States by the 4th section of the act, approved 27 July, 1866 (14 Stat. 292), Eugene L. Sullivan and A. S. Bender, of California, and Z. B. Sturgus, of Indiana, are hereby appointed commissioners to examine and report to the President of the United States upon the road and telegraph line authorized by the 18th section of said act, Joint Resolution of 28th June, 1870 (16

State. 382), and the 23d section of the act, approved 3d March, 1871 (16 Stat. 579), to be constructed by the Southern Pacific Railroad Company of California.

R. B. HAYES.

[Endorsement]: Southern Pacific R. R. Department of the Interior. Lands and railroads. Received 27 Oct., 1877. Dated 27 Oct. 1877. From the President. Subject: Appoints E. L. Sullivan, A. S. Bender, and Z. B. Sturgus, Comrs. to examine So. Pacific R. R. Action: 187—. Respectfully referred to the commissioner of the general landoffice. Commissioners notified 27 Oct., 1877. Registered 2-7, '93. Chief Clerk.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California. do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office, November 19, 1895, said original exhibit being described as "Defendants' Exhibit No. 317, in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants. No. 600, and "Defendants' Exhibit No. 36," in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit No. 36. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 317. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 37.

A. M.
M. C. M. N.
E. H. H.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 10, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original as it appears of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal of Department of the Interior.] JNO. M. REYNOLDS,
Acting Secretary of the Interior.

E. W.

Department of the Interior.

Washington, D. C., 27th October, 1877.

59-115.
Southern Pac. R. R.
Comrs. Instructed.

Messrs. Sullivan, Bender & Sturgus.

Gentlemen: Application having been made by the president of the Southern Pacific R. R. Co. for the examination by commissioners of one hundred and eighteen and 37-100 miles of the completed line of said company's road, commencing at a point in the S. W. ¼ of sec. 24, T. 5 S., R. 7 E., San Bernardino base and meridian, and ending at a point in the S. E. ¼ of sec. 26, T. 16 S., R. 22 E., same base and meridian, you have been appointed by the President of the United States commissioners to examine and report upon the same.

The appointment is made upon condition that you have neither directly nor indirectly any interest in this corporation, nor any connection with or bias for or against it which would interfere with impartial performance of the duties imposed upon you. Be pleased to at once advise this department whether you accept or decline the position. If you accept, the enclosed blank oath must be duly executed and returned. Three commissioners are required to make the examination and sign the report; therefore, if either should decline, the others will not be authorized to act until they are advised of the appointment of another person to fill the vacancy.

A map and profile of the road examined will be transmitted with your report. I enclose herewith forms of certificates to be made on such map and profile by the president and chief engineer of the company.

You will be guided in the discharge of your duties by the "Circular of Instructions for the Examination of Railroads," dated 28th April, 1871, copy herewith.

The 21st section of the act of 27th July, 1866 (14 Statutes, 299), fixes your compensation at $10 per day for each day actually and necessarily employed, and 10 cents per mile for each mile actually and necessarily traveled in discharging the duties required of you, which per diem and mileage shall be in full compensation for your services, and must be paid by the company. Duplicates of the receipts given by you on payment thereof will be inclosed with the report.

On the reception by the department of your letters of acceptance and oaths of office, you will be ordered to proceed with the examination.

A copy of the President's order appointing you commissioners is herewith enclosed.

Very respectfully,

C. SCHURZ,
Secretary.

Messrs. E. L. Sullivan,
A. S. Bender,
San Francisco, Cal.
Z. B. Sturgus, Washington.

United States of America,
Southern District of California. } ss.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States for the Southern District of California, do hereby certify that I have carefully compared the foregoing papers with an original exhibit filed in my office November 19th, 1895, said original exhibit being described as "Defendants' Exhibit No. 318" in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 600, and "Defendants' Exhibit No. 37," in the case entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, No. 587, before Leo Longley, special examiner; and I certify that said foregoing papers are a full, true, and correct copy of said exhibit and of the whole thereof.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Circuit Court this 8th day of May, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit No. 37. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. 318. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk. Filed May 8, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 43.

ANNUAL REPORT

of the

COMMISSIONER OF THE GENERAL LANDOFFICE

for the

Fiscal Year Ending June 30, 1875.

WASHINGTON:
Government Printing Office.
1875.

SYNOPSIS of the annual report of the commissioner of the general landoffice for the fiscal year ending June 30, 1875.

No. 9.-Statement exhibiting land concessions by acts of Congress to States and corporations, &c.-Continued.

States.	Date of laws.	Statutes.	Page.	Name of road.	Mile Limits.	Estimated quantity embraced in the limits of the grant.	Estimated quantity which the company will receive from the grant.	Number of acres certified or patented for the year ending June 30, 1875.	Number of acres certified or patented up to June 30, 1875.
Corporations									
Do.....	July 27, 1866	14	292	Southern Pacific	20 and 30	6,000,000.00	3,750,000.00	394,447.09	400,413.42
Do.....	Mar. 3, 1871	16	579	Southern Pacific from a point at or near Tehachapi Pass to the Texas Pacific Railroad at or near Colorado River	20 and 30	3,520,000.00	3,000,000.00	-----------	-----------
Do.....	Mar. 3, 1871	16	573	Texas Pacific	(California, 20 and 30; Territories, 40. 50.	18,000,000.00	17,000,000.00	-----------	-----------

I hereby certify that the foregoing three pages are a full, true, and correct copy of the original evidence introduced by the defendants in the case of United States vs. Southern Pacific Railroad Company et al., numbered 587, on the docket of the United States Circuit Court, 9th Circuit, Southern District of California, as "Defendants' Exhibit No. 43."

LEO LONGLEY,
Special Examiner.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. No. 587. Defendants' Exhibit No. 43. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Plaintiff, vs. SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GERRIT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY, Defendants.	No. 587.

Second Partial Report of Special Examiner in Chancery.

To the Honorable, the Judges of the Circuit Court of the United States, in and for said District:

Pursuant to an order of reference made and entered in the above-entitled cause as of the 23d day of January, 1895, whereby it is ordered that the undersigned, as special examiner in chancery, shall take the evidence in the above-entitled cause and report the same to the Court, the said special examiner does now submit this his second partial report as follows:

That on the 18th day of December, 1895, at ten o'clock A. M., the complainant appeared at the office of the clerk of the United States Circuit Court, in the city of Los Angeles, California, by its solicitor, Joseph H. Call, Esquire, and the defendants by their counsel, Walter J. Trask, Esquire; and thereupon the complainant introduced in evidence exhibits numbered Plaintiff's Exhibits 14 to 27, inclusive, and the defendants introduced in evidence exhibits numbered A1 and A2. And thereupon the further taking of testimony was adjourned subject to further notice.

And the said record accompanying this report contains all of the evidence and exhibits introduced in said cause by the respective parties between the date of my first partial report and the date hereof; all of which, with the exhibits introduced, is herewith returned to the Court.

December 28, 1895.

LEO LONGLEY,
Special Examiner in Chancery.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Plaintiff,

vs.

SOUTHERN PACIFIC RAILROAD CO. et al., Defendants.

No. 587.

Testimony.

Testimony on behalf of plaintiff taken by consent before Leo Longley, special examiner and stenographer, in pursuance of notice this 18th day of December, 1895, at 10 o'clock A. M.

Present:

Joseph H. Call, Esq., Special Assistant United States Attorney, for the Plaintiff.

Walter J. Trask, Esq., of Counsel for Defendants.

Mr. CALL.—I offer in evidence a letter dated May 22, 1883, from the secretary of the interior to the commissioner of the general landoffice, in the case of the Texas Pacific Railroad vs. Daneri, now marked "Plaintiffs' Exhibit No. 14."

Mr. TRASK.—To which the defendants object, upon the ground that it is incompetent, irrelevant, and immaterial, and not in rebuttal.

Mr. CALL.—I offer in evidence the argument of Williams, attorney for the Texas Pacific Railroad Company, in the above-entitled action before the secretary of the interior, now marked "Plaintiffs' Exhibit No. 15."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence the decision of the secretary of the interior in the same case, now marked "Plaintiffs' Exhibit No. 16."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence the decision of the secretary of the interior in the proceeding of Sohn vs. Texas Pacific Railroad, dated September 25, 1884, now marked "Plaintiffs' Exhibit No. 17."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence the decision of the secretary of the interior in the case of Texas and Pacific Railroad Company vs. Gray, dated December 12, 1884, now marked "Plaintiffs' Exhibit No. 18."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence the letter of the commissioner of the landoffice to the register and receiver at Los Angeles, dated September 27, 1871, transmitting a map of the Texas Pacific Railroad and ordering a withdrawal, now marked "Plaintiffs' Exhibit No. 19."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence the letter of the commissioner of the landoffice to the register and receiver at Prescott, Arizona, dated November 16, 1871, transmitting a map of the Texas Pacific Railroad and ordering a withdrawal, now marked "Plaintiffs' Exhibit No. 20."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence a stipulation between the attorneys and parties of the above-entitled suit of United States vs. Southern Pacific Railroad to the effect that John C. Brown was the vice-president and a director of the Texas & Pacific Railway Company during all of the year 1881, now marked "Plaintiffs' Exhibit No. 21."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence a certified copy of the bill of complaint of the Texas & Pacific Railway Company against the Southern Pacific Railroad Company and others, in the territory of New Mexico, Third Judicial District, now marked "Plaintiffs' Exhibit No. 22."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence the letter of the register and receiver at Los Angeles to the commissioner of the landoffice, dated April 1, 1873, acknowledging receipt of withdrawal order of September 27, 1871, now marked "Plaintiffs' Exhibit No. 23."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence certified copy of the annual report to the secretary of the interior, of the Texas & Pacific Railway Company, for the year ending June 30, 1873, together with the annexed letter of Scott, president of said company, transmitting said letter, now marked "Plaintiffs' Exhibit No. 24."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence a certified copy of the annual report of the Texas & Pacific Railway Company to the secretary of the interior for the year ending June 30, 1876, together with Scott's letter of transmittal, now marked "Plaintiffs' Exhibit No. 25."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence a certified copy of the annual report of the Texas & Pacific Railway Company to the secretary of the interior for the year ending June 30, 1877, together with Scott's letter of transmittal, now marked "Plaintiffs' Exhibit No. 26."

Mr. TRASK.—Same objection.

Mr. CALL.—I offer in evidence a certified copy of the map of the Texas & Pacific Railway Company through Texas, New Mexico, Arizona, and California, filed in the department of the interior with the annual report of said company for the year ending June 30, 1877, now marked "Plaintiffs' Exhibit No. 27."

Mr. TRASK.—Same objection.

Testimony taken on behalf of defendants, by consent, before Leo Longley, special examiner and stenographer, in pursuance of notice, this 18th day of December, 1895, at 10 o'clock A. M.

Present:

Joseph H. Call, Esq., Special Assistant United States Attorney, for the Plaintiff.

Walter J. Trask, Esq., of Counsel for the Defendants.

Mr. TRASK.—I offer in evidence a certified copy of letter from Henry Beard, addressed to Honorable J. Q. C. Lamar, secretary of the interior, inclosing a copy of the company's resolution of May 16, 1871, accepting the branch line grant, and stating the reasons for filing the same at that time, and ask that it be marked "Defendants' Exhibit A1."

Mr. CALL.—I call your attention to the fact that the time for taking defendants' testimony in this case has expired, and I consent that additional testimony can be taken at this time, with the understanding that no objection shall be made to the plaintiffs' evidence taken at this time on the ground that it is not in rebuttal. And I also object to the offer of said exhibit on the ground that the same is incompetent, immaterial, and irrelevant.

Mr. TRASK.—I offer in evidence a certified copy of the resolution of the company, passed May 16, 1871, accepting the branch line act, which was filed with Mr. Beard's letter above mentioned, and ask that the same be marked "Defendants' Exhibit A2."

Mr. CALL.—Same objections above mentioned, and the further objection that said pretended acceptance was not filed in the office of the commissioner of the general land-office or of the secretary of the interior within the time required by the acts of Congress referred to.

Mr. TRASK.—The defendants ask that the documents introduced by them at this time, marked A1 and A2, be copied by the examiner, and the copies thereof substituted for the original exhibits, and that the defendants may thereupon withdraw said originals.

Mr. CALL.—I object at this time to the exhibits being withdrawn upon substituting the copies.

The further taking of testimony herein is adjourned, subject to further notice.

[Endorsed]: Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 14.

M. N. (4-207.) R. F. F.

Department of the Interior.

General Landoffice,

Washington, D. C., September 20, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of a letter is a true and literal exemplification of the original as it appears on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

Exd. E. B. De g. J. K. McC. S. W. R.

Department of the Interior.

Washington, May 22, 1883.

The Commissioner of the General Landoffice:

Sir: I have considered the case of Emanuelle Daneri vs. The Texas and Pacific Railway Company, involving the N. ½ of S. W. ¼, S. W. ¼ of N. E. ¼, and the N. W. ¼ of S. E. ¼ of sec. 19, Tp. 18 S., R. 1 W., S. B. M., Los Angeles District, California, on appeal by Daneri from your predecessor's decision of February 5, 1881, rejecting his application to file a pre-emption declaratory statement for said tract.

The record shows that the tract in question is within the limits of the withdrawal under the act of March 3, 1871 (16 Stat., 573), granting lands to said company, which was made October 15, 1871, upon a preliminary line not as yet definitely located. The said tract was also within the limits of the supposed Rancho Millijo or La Punta, which was finally rejected by the United States District Court of California, September 20, 1855, no appeal having been taken to the United States Supreme Court.

By decision of Acting Secretary Cowen, rendered under date of October 28, 1873, the application of Guadaloupe E. de Arguello to purchase the land formerly supposed to have been embraced within the limits of said rancho, under the provisions of the 7th section of the act of July 23, 1866 (14 Stat., 218), was rejected. Pending this action the lands embraced in Mrs. Arguello's claim were suspended from sale by your office October 29, 1872.

The records of your office show that the township plat embracing the tract in question was filed in the local office October 28, 1879.

On December 26, 1879, Daneri made application at said office to file a declaratory statement for such tract, alleging settlement thereon January 29, 1879, but the register and receiver refused the same on the ground that said tract was embraced in the withdrawal for the railroad. From this action Daneri appealed, basing his appeal upon the ground that the tract in question was suspended from said withdrawal by reason of the pendency of the Millijo grant claim, and that upon its rejection said tract reverted to the United States.

I am of the opinion, however, that the rancho claim having been finally rejected in the year 1855, as aforesaid, the tract in question was not excepted from the operation of the railroad grant, and that the temporary suspension pending the consideration of Mrs. Arguello's application to purchase the tract, embracing the one in question, did not affect the railroad withdrawal, since which date the lands thus withdrawn have been in a state of reservation, and not, therefore, subject to disposal under the pre-emption or other laws.

This may be a case of hardship for the settler; but unfortunately the executive has no option in the matter. The Supreme Court, in Schulenberg v. Harriman (21 Wall. 44), having laid down the rule that there could be no effective declaration of forfeiture, even upon condition broken, the grant to the company must be held intact until the legislature or judicial branch declares the grant to be inoperative, because of failure to construct within the time prescribed.

The attention of Congress has been called by some of my predecessors, as well as by myself, to the fact that large tracts of public lands are reserved for the benefit of certain railroad companies under the provisions of acts of Congress, and that many of these companies (including the Texas and Pacific) have not complied with the law which provides for the completion of their roads within a specified time.

No action having been taken by Congress, I can but accept its failure to act as an expression of the legislative will that the decisions of the courts and the opinions

of attorneys general bearing upon the points involved shall be my guide in administering the law. This being the case, I do not find any sufficient reason for refusing to affirm your decision; and it is accordingly affirmed.

The papers submitted by your letter of November 9, 1891, are herewith returned.

Very respectfully,

H. M. TELLER,
Secretary.

Vol. 3-228-'81.

[Endorsed]: (587.) Ex. 14 L. L. In the Circuit Court of the United States, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 14. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 15.

M. N. (4-207.) R. F. F.

Department of the Interior.

General Landoffice,

Washington, D. C., September 20, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of the argument filed on behalf of the company in the case of E. Daneri vs. Texas Pacific R. R. Company is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my

name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,
Commissioner of the General Landoffice.

Exd. E. B. De J.

AMANUELLE DANERI
vs.
TEXAS PACIFIC RAILROAD CO.

On Appeal Before the Hon. Sec. of the Interior.

In the matter of the above-entitled case, involving the N. ½, S. W. ¼, S. W. ¼, N. E. ¼, and N. W. ¼, S. E. ¼, sec. 19, Tp. 18 S., R. 1 W., S. B. M., now on appeal before the Hon. Sec. of the Interior from the decision therein Feb. 5th, 1881, of the Hon. Com. Genl. Landoffice, the said Railroad Co., by its attorney, now presents for argument on appeal in said case the following points, to wit: That Hon. Com. in his decision of Dec. 18, 1880, in said case was clearly in error in holding that the application of Mrs. Guadalupe E. Arguello to purchase certain lands (embracing the tract in controversy), under the act of July 23, 1866, was in the nature of an undetermined Mexican grant claim, and thereby excepted said tract from the operation of the grant to said Co.; that under the universal practice in the general landoffice and the local offices applications to purchase under said act have been treated merely as an adverse pre-emption filing; that during the pendency of said applications under said act in

the local office at Los Angeles, Cal., pre-emption filings for lands embraced in such applications were admitted, and in no case has a township plat been suspended or lands been reserved from the operation of the pre-emption and homestead laws of the United States by reason of such application.

That under all precedent and rules of the general land-office the Hon. Com. is justifiable in reviewing and reversing a previous erroneous ruling, and in this case it is apparent that his decision of Dec. 18, 1880, was in error, and that the decision of Feb. 5, 1881, should be affirmed.

ALFRED JAMES,
Attorney for T. P. R. R. Co.

[Endorsed]: Argument. On appeal before Hon. Sec. of the Interior. Emanuelle Daneri vs. T. P. R. R. Co. Filed August 11, 1881. Chas. R. Johnson, Register. 1881, 58,010, enc. 1. Alfred James, Atty. for R. R. Co. (587.) Ex. 15. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 15. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 16.

M. N. (4-207.) R. F. F.

Department of the Interior.

General Landoffice,

Washington, D. C., September 20, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of a letter

is a true and literal exemplification of the original of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,
Commissioner of the General Landoffice.

Exd. W. J. D.
E. B. De g. Case 3093. J. D. S.
H. D. L.
Refer in reply to
this initial:
"F."

Department of the Interior.

General Landoffice,
Washington, D. C., Feb. 5, 1881.

Address only the
Commissioner of the General Landoffice.

Register and Receiver, Los Angeles, California.

Gentlemen: Referring to my decision of December 18, 1880, in the case of Emanuelle Daneri vs. The Texas and Pacific Railroad Company, involving the N. W. ¼, S. W. ¼, S. W. ¼, N. E. ¼, and N. W. ¼, S. E. ¼, of section 19, 18 S., 1 N., S. B. M., I have to advise you that the same was erroneous, in that it held the said tract to be subject to preemption.

The land is within the limits of the grant of March 3, 1871, to the said company. The line of road is not yet

definitely located. Lands withdrawn upon a preliminary line October 15, 1871.

The tract was also within the limits of the Millijo rancho, or La Punte, which was finally rejected by the United States District Court of California September 20, 1855, no appeal to the Supreme Court of the United States having been taken.

By decision of this office February 6, 1872, the claim of Mrs. Guadaloupe E. Arguello to the lands in said rancho under act of July 23, 1866, embracing 2274.30 acres, was rejected, and the same was affirmed by the secretary of the interior October 28, 1873.

The lands embraced in Mrs. Arguello's claim were not suspended until October 29, 1872, and then only to await the action of the secretary of the interior on Mrs. Arguello's appeal. At the date of the withdrawal for the railroad company the land in question was public land, the rancho claim having been finally rejected in 1855. The temporary suspension made in 1872 did not affect the withdrawal of October 15, 1871, and the lands are now in a state of reservation for the railroad company, and are not subject to pre-emption or other entry.

My said decision of December 18, 1880, is accordingly set aside and Mr. Daneri's application rejected, subject to appeal within 60 days. Advise the parties in interest of this action.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

[Endorsed]: (587.) 16 L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 16. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 17.

M. N. (4-207.) R. F. F.

Department of the Interior.

General Landoffice,

Washington, D. C., September 20, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed letter is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

Exd. J. K. McC.

E. B. De g. D. A. McK.

Department of the Interior.

Washington, September 25, 1884.

The Commissioner of the General Landoffice.

Sir: I have considered the case of Harrison S. Sohn vs. The Texas & Pacific Railroad Company, involving the

S. E. ¼ of section 27, township 18 S., range 2 W., Los Angeles, California, on appeal by the company from your decision of November 20, 1883, awarding the land to Sohn.

It appears that the land is within the 20-mile limits of the grant of March 3, 1871, to said company, and was withdrawn for their benefit October 15, 1871. The line of the road has not yet been definitely located. Sohn filed homestead application for the land April 19, 1882, which was rejected by the local office on the ground that the tract was within the withdrawal for said company. On appeal by Sohn alleging that a valid pre-emption claim to the tract existed at date of said withdrawal, your office ordered a hearing, and on review of the evidence offered found that such a claim did then exist (made by one Howard Putnam, who filed declaratory statement No. 158 on April 16, 1870, and who resided on and improved the tract until 1872), and that it excepted the land from the withdrawal.

The company object that said evidence does not sufficiently identify the land. On examination of the evidence, I find that the land in controversy is sufficiently identified as the identical land which Howard Putnam claimed and occupied at date of the withdrawal.

They object further that the evidence does not sufficiently establish the qualifications of Putnam as a pre-emptor.

I find that the evidence shows, by his own and the testimony of two others, that he had all the prescribed qualifications of a pre-emptor.

They object further that the right of Sohn to an entry on this land has been heretofore rejected and the land

declared to be withdrawn for the railroad. I find that in 1879 Sohn applied for the land under the pre-emption law, alleging that it was excepted from the grant by reason of its being within the Milijo rancho, which was subjudice at that date; and that this claim was rejected, and the rejection became final. As this was an adjudication upon an issue different from that in the case before me, it does not affect the latter case.

The company object finally that Sohn has not shown his own qualifications or taken the homestead oath. As the land in controversy was excepted from the withdrawal, and has not been appropriated by a definite location of the company's line, this question is exclusively between Sohn and the Government.

Your decision is affirmed.

Herewith are returned the papers accompanying your letter of May 6, 1884.

Very respectfully,

H. M. TELLER,
Secretary.

Vol. 4-661.

[Endorsed]: (587.) Ex. 17. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 17. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 18.

M. N. (4-207.) R. F. F.

Department of the Interior.

General Landoffice,

Washington, D. C., September 20, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of a letter is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

Exd.

E. B. De J. H. D. L. J. K. McC. J. L. McC.

Department of the Interior.

Washington, December 12, 1884.

The Commissioner of the General Landoffice.

Sir: I have considered the case of the Texas and Pacific Railway Company vs. Sarah Ann Gray, involving the right of the latter to make pre-emption filing for the W. ½ of the N. W. ¼ of sec. 35, Tp. 15 S., R. 5 E., S. B. M., Los Angeles District, California, on appeal by the company from your adverse decision of May 2, 1884.

The land is within the primary limits of the grant of March 3, 1871, to said road. The lands in the odd-numbered sections were withdrawn upon a preliminary line October 15, 1871.

April 9, 1883, Sarah Ann Gray applied at the district office to make pre-emption filing for the land in question, alleging settlement February 28, 1883. Her application was rejected by the local officers on the ground that the land was within the limits of the withdrawal for the benefit of said railway company.

Gray appealed to your office, and filed therein affidavits setting forth that said land was, at the date of such withdrawal, claimed, occupied, and improved by a qualified pre-emption settler. Thereupon your office ordered a hearing to ascertain the status of the land at the date indicated. Upon the hearing the register and receiver held that the proof was insufficient to establish such a claim as would except the land from the railroad grant.

From this decision Gray appealed to your office, which reversed the decision of the local officers, whereupon the company appeals to the department.

The testimony shows that one John Sinclair, a citizen of the United States, and in other respects a qualified pre-emptor, a voter in that precinct, settled upon the land in question in 1870; that he had a house and barn thereon, and a garden of some four acres; also some fencing. The witnesses estimate the value of his improvements at from $500 to $700. Sinclair remained upon the land until 1873.

The township plat of survey was filed in the district landoffice October 28, 1879.

I concur with you in the opinion that Sinclair, at the date of the withdrawal for the company, had a valid claim to the land, such as he could have perfected, and which brought it within the list of lands excluded from the grant by act of March 3, 1871 (16 Stat., 573), by reason of having been "sold, reserved, occupied, or pre-empted." Counsel for the company argue that "it is error to award the land to Gray, because she has not * * * proven her personal qualifications to pre-empt public land. * * * The law grants the pre-emption right only to the head of a family, a widow, or a single person over twenty-one years of age. It is not shown that Gray is one or more of these."

If the proof at the hearing ordered had shown that the tract in question had passed to the company by the grant, the United States would not thereafter have felt called upon to dictate to whom and upon what terms the company should dispose of its land. On the other hand, since the tract did not pass to the company, it is not now competent for the company (being no longer an interested party) to constitute itself the protector and guardian of the Government.

I therefore affirm your decision permitting Gray to make pre-emption filing for said land.

The papers transmitted with your letter of August 29, 1884, are herewith returned.

Very respectfully,

M. L. JOSLYN,
Acting Secretary.

Vol. 4, 368.

[Endorsed]: (587.) Ex. 18. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 18. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 19.

M. N. (4-207.) W. J. M.

Department of the Interior.

General Landoffice,

Washington, D. C., April 20, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed copy of office letter dated September 27, 1871, to the register and receiver at Los Angeles, California, is a true and literal exemplification of the original as it appears of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

Department of the Interior.

General Landoffice,

September 27th, 1871.

Register and Receiver, Los Angeles, California.

Gentlemen: By direction of the secretary of interior, dated 2d inst., and in accordance with the 12th

section of the act of 3d March, 1871, granting lands to aid in the construction of the Texas Pacific Railroad, I transmit herewith a map showing the designated line of route of said railroad in the State of California and the limits to the extent of twenty miles of the land grant on each side of said road, and you are hereby directed to withdraw from pre-emption or homestead entry, private entry or sale, all the odd-numbered sections of land surveyed or unsurveyed within those limits. The even-numbered sections are, by the terms of the act, open to pre-emption and homestead entry when surveyed, and you will so treat them holding them in accordance with the requirements of the act of March 3d, 1853, at the double minimum price of $2.50 per acre.

Pre-emption or homestead settlers on any of the surveyed lands prior to this withdrawal, and who shall meet the requirements of law, will be entitled to hold their lands at the minimum price of $1.25 per acre.

This order will take effect from the date of its receipt by you, and you are directed to acknowledge the exact time of its reception.

Very respectfully,

W. W. CURTIS,
Acting Commissioner.

[Endorsed]: (587.) Ex. 19. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 19. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 20.

M. N. (4-207.) W. J. M.

Department of the Interior.

General Landoffice,

Washington, D. C., April 20, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of office letter, dated November 16, 1871, to the register and receiver at Prescott, Arizona, is a true and literal exemplification of the original as it appears of record in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

Department of the Interior.

General Landoffice,

November 16, 1871.

Register and Receiver, Prescott, Arizona.

Gentlemen: The Texas Pacific Railroad Company, having filed a map of the proposed line of their road from El Paso to San Diego, Cal., as required by the 12th section of the granting act March 3d, 1871, I herewith transmit a map showing, as near as may be, the line of said road through the territory of Arizona, together with the

limit of 40 miles on each side of the route, and in accordance with the requirements of the act you are hereby directed to withdraw from pre-emption or homestead entry or sale all the odd-numbered sections of land falling within said limits. The even-numbered sections you will hold at the double minimum price of $2.50 per acre, and dispose of at that ratability and under the pre-emption and homestead laws only.

As this is the first grant of lands and order of withdrawal pertaining to railroads in Arizona, I call your attention:

1st. To the provisions of the homestead act, which limits entries on double minimum lands to 80 acres, except to soldiers of late war, who are allowed to take 160 acres, as indicated on page 6 of accompanying circular and form of affidavit, on page 26.

2d. In payment by pre-emptors, the party may pay with military land warrants or agricultural college scrip and cash. In payment with warrants or scrip the warrant must be of the same denomination in acres as the tract, and is receivable acre for acre, rating the warrant or scrip at $1.25 per acre, and the additional payment must be made with cash at the rate of $1.25 per acre. The certificate of location must issue for the whole tract and on the warrant or scrip location, the receiver issuing an excess receipt for the cash and accounting for the money in his cash returns, but not bringing the acres into his cash footings, they appearing properly in his warrant abstract. The register will issue no certificate of sale on such excess payments.

3d. Where a party may establish his claim to either the odd or even sections within the limits of the grant, in accordance with the requirements of the pre-emption laws showing settlement prior to this withdrawal, he will be entitled to the land at $1.25 per acre.

The withdrawal will take effect upon date of the receipt of this letter at your office, and you will immediately, upon its receipt, acknowledge same by letter to this office.

The map herewith indicates only the preliminary line of road and withdrawal, and the same will be adjusted permanently as the surveys shall progress and the company file their map of definite location. Until you receive further instructions from this office, however, you will be governed by the lines laid down on the map herewith.

Very respectfully,

WILLIS DRUMMOND,

Commissioner.

[Endorsed]: (587.) Ex. 20. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 20. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk. 3677. Department of the Interior. L. & R. R. Div. Received Apr. 23, 1895.

Plaintiffs' Exhibit No. 21.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

IN EQUITY.

UNITED STATES OF AMERICA, Plaintiffs,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

Stipulation.

The defendants herein admit that John C. Brown was the vice-president and a director of the Texas and Pacific Railroad Company during all the year 1881, and agree that such fact shall be considered as fully proved, for all purposes of the above-entitled suit, by these presents.

Dated and signed November 5, 1895.

JOSEPH D. REDDING,
Solicitor for Defendants.
WM. SINGER, JR.,
Attorney for Defendants.

WM. F. HERRIN,
Counsel for Defendants.

[Endorsed]: (Ex. 21.) L. L. No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific

Railroad Company et al. Stipulation. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 21. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 22.

United States of America,
Territory of New Mexico,
Third Judicial District. } In Chancery.

Between The Texas & Pacific Railway Company, Complainant, and The Southern Pacific Railroad Company of New Mexico, and the Southern Pacific Railroad Company of Arizona, and The Southern Pacific Railroad Company of California, and The Los Angeles & San Diego Railroad Company, and The Central Pacific Railroad Company, Defendants.

To the Honorable WARREN BRISTOL, Associate Justice of the Supreme Court of the Territory of New Mexico, and Presiding Judge of the Third Judicial District Court of said Territory:

Your orators, the Texas & Pacific Railway Company, a corporation duly created under and by virtue of an act of Congress of the United States, approved March 3d, 1871, and the subsequent acts amendatory thereto, brings this its bill against the Southern Pacific Railroad Company of New Mexico, and thereupon your orator humbly complaining shows unto your Honors that it is a corporation, having its principal office in the city of New York,

in the State of New York; that the objects and purposes of the act of Congress incorporating said Texas & Pacific Railway Company were to authorize and empower it to build, construct, maintain, and operate a continuous line of railway and telegraph from or at a point near Marshall, Harrison county, in the State of Texas; thence by the most direct and eligible route to be determined by your orators to a point at or near El Paso; thence by the most direct and eligible route to be selected by your orators through New Mexico and Arizona to a point on the Rio Colorado, at or near the southeastern boundary of the State of California; thence by the most eligible route to San Diego, in the State of California, pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude, and it was in and by said act of incorporation vested with all powers, privileges, and immunities necessary to carry into effect the purposes of said act.

And your orator further shows to your Honors that it was provided in and by said act of incorporation, as an inducement to the acceptance of the charter so created, and to the construction of the railroad of your orator, that the right of way through the public lands be, and were thereby, granted to your orator for the construction of the said railroad and telegraph line, which right of way so granted is to the extent of two hundred feet in width on each side of said railroad where it may pass over public lands; and there is also by said act of incorporation and charter granted to your orator grounds for workshops, station and depot-houses, wharves, switches, side-

tracks, turntables, water station, and such other structures as may be necessary for your orator's line of railway not exceeding forty acres of land at any one point.

And your orator further shows to your Honors that, as an additional inducement to the acceptance of said charter and the expenditure of vast sums of money necessary in the construction of said line of railway, it was further provided that for the purpose of aiding in the construction of said railroad and telegraph line therein provided for, there was at that time, to wit, on March third, 1871, granted to your orators, its successors and assigns, every alternate section of land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile on each side of said railroad line, as such line might be adopted by your orators through the territories of the United States and ten alternate sections of land per mile on each side of said railroad in California.

And your orator further shows unto your Honors that, as an additional inducement to the acceptance of said charter and the construction of said line of railway, it was further provided that your orator, within two years after the passage of said act of Congress, should designate the general route of its said road as near as may be, and should file the same in the department of the interior, and, when the map was so filed, the secretary of the interior should cause the lands within forty miles on each side of said designated route within the territories and twenty miles within the State of California to be withdrawn from pre-emption, private entry, and sale.

And your orator further shows to your *orators* that the said act of Congress incorporating your orator further

provided that it should be, and it was declared to be, a military and post road, and that no act of your orator nor any law of any State or territory should impede, delay, or prevent your orator from performing its obligations to the United States in that regard. Extracts of said acts of Congress are hereto attached, marked Exhibit "A."

And your orator further shows to your Honors that the rights and privileges so as aforesaid granted, continued, and guaranteed to your orators constitute a species of property known in law as a franchise, and is of a nature peculiar and extraordinary; that it consists in part of the right or franchise to construct and operate a railway with the ordinary and usual rights *rights* and privileges appurtenant thereto, and further in the right or franchise, by grading, constructing, and equipping said road, to acquire from the United States patents for the lands of said United States to the extent of twenty alternate sections of public lands per mile in the territories and ten sections of land per mile in California, on each side of said railway line, as adopted by your orator for each mile of said railway so graded and constructed, and in the further right or franchise, and especially the exclusive right to own and patent the same within the limits of said reservation of forty miles in the territories and twenty miles in California. That said several rights, to wit, the right to construct and operate a railway, to acquire patents for the land by said construction, to own the said alternate sections within said reservation to the exclusion of all others, are interdependent in their nature, neither being as valu-

able without the other; that the right of said reservation is of the essence of the whole franchise, and is that which gives its chief value to the same.

And your orator further shows that in or about the year 1871, and in full reliance of the grants, guarantees, and assurances by the United States to your orator of the said franchises, and especially of its exclusive right, privileges, and immunities, and in the belief that such exclusive rights to construct, operate, and maintain said line of railway, and to own and use said rights and privileges, and the exclusive right to patent, use, and enjoy said lands so granted, was an inherent part of the franchise so created, did organize under and in pursuance of said charter and the subsequent amendatory acts as the Texas & Pacific Railway Company, and accepted the said franchises, grants, and reservation rights, privileges, and immunities as the consideration for, and the conditions of its organization, and thereafter within the times limited by said act of Congress, and the subsequent acts amendatory thereof, did and performed all the acts and things necessary to the full and complete vesting, securing and preserving of the franchises, rights, and privileges so granted and continued.

And your orator further shows to your Honors that it designated and located the general route of its road, and on the 2d day of September, 1871, it duly filed its map and location of its line from Marshall, in the State of Texas, to San Diego, in the State of California, in the department of the interior at Washington, and that said map was by said secretary of the interior filed in the general landoffice

at Washington on said day. That thereafter the lands on your orator's line in the territory were withdrawn by letter on the 22d of November, 1871, of the secretary of the department of the interior, which was received at the landoffice at Santa Fe, New Mexico, on the 4th day of December, 1871, and that said land, for a distance of forty miles on each side of its line, then, and ever since has been, withdrawn from entry and occupation and sale, and are held for the exclusive and sole use of your orator to be enjoyed, managed, used, and disposed of by your orator in accordance with said act of incorporation and laws supplemental thereto. And your orator further shows to your Honors that for the better understanding of its line and location, and that your Honors may ascertain the extent of its rights and privileges and the land reserved and withdrawn by and in accordance with said act of Congress, the duly certified copies thereof as filed and accepted by the department of the interior as aforesaid, showing said route of your orator, will be exhibited and produced whenever requested by your Honors.

And your orator shows to your Honors that the designated route of the railroad of your orator, as mapped and filed in the department of the interior, is substantially as follows: Beginning at a point on the western boundary line of the territory of New Mexico, about twenty miles north of the 32d parallel of north latitude, near to a place called Stein's Peak; thence running southeastwardly and eastwardly, passing near a place known as Leitendorf's Wells; thence north eastwardly to a point about four

miles south of a place called Soldier's Farewell; thence eastwardly and southeastwardly to the Rio Mimbres, about five miles below Black Rock Tank, on the said river, and thence, crossing said river in a general southeastern direction to the eastern boundary line of the territory of New Mexico, near the southeast corner of said territory, crossing the Rio Grande river, which separates said territory from the State of Texas, at or near, and north of, the town of Franklin, county of El Paso, in the State of Texas, and at or near the town of El Paso, in the Republic of Mexico.

And your orator shows that the forty-mile reservation in favor of your orator as aforesaid, on each side of said line, has been duly and plainly marked on the Government maps of said territory, and especially on the maps in the general landoffice, department of the interior, and are notice to the world of the existence of said reservation and the rights of your orator therein.

And your orator further shows to your Honors that by said surveys, designations, and returns and by said action of the secretary of the department of the interior at Washington, and the land reservation granted to the said Texas & Pacific Railway Company by its said charter, became vested, defined and officially recognized and as is contained in said letter of the secretary of the interior of the date of 22d day of November, 1871, and filed in the landoffice at Santa Fe, in said territory of New Mexico, on the 4th day of December, 1871, a certified copy of which is hereto attached and made part of this bill and marked "Exhibit B." And your orator further shows that on the

filing of said letter the lands therein described became then and ever since then are specially reserved from entry, sale, or pre-emption.

And so your orator submits to your Honors that by said act of incorporation, and the laws supplementary thereto by the actual survey and location of the line of its road across the territory of New Mexico, by the absolute grant to your orator of every alternate section of land to the amount of twenty alternate sections per mile on each side of said railway line as adopted, designated, and located by your orator through said territory of New Mexico, and by the withdrawal of all said lands by the department of the interior from pre-emption, private entry, and sale, for the sole use of your orator, and in the full compliance in all respects by your orator with the terms and conditions of said acts of your orator and the laws amendatory and supplemental thereto, your orator became, in the year 1871, vested with the right to said land and every part thereof so withdrawn from pre-emption and sale, and became and was vested with the sole and exclusive right to locate, construct, furnish, maintain, and enjoy a railroad and telegraph line in, over, and upon said lands, or any part thereof, and upon the line and route so designated, located, and filed in the department of the interior.

And your orator further shows that after its said organization it proceeded to grade and construct its roadbed and railway, commencing near the city of Marshall, in the State of Texas, and that in the year 1873 had completed, and was maintaining and operating in the State of Texas, more than three hundred miles of first-class railway, and

that in or before the year 1876 it had constructed and had in operation over one hundred miles of additional....., so that in or before the year 1877 your orator had constructed and in complete operation and fully equipped upwards of four hundred and forty-three miles of railway in Texas, with a western terminus in the city of Fort Worth, in the interior of said State, and upwards of forty miles of additional under contract. That in the year 1873 the continuation of said work of construction was interrupted by a financial panic which affected the whole country, and by reason of such financial depression your orator was unable for the time to proceed with the construction of its railway and telegraph lines as rapidly as it would have done if said financial difficulties had not existed; your orator shows to your Honors that soon as financial confidence was restored it put under contract more than six hundred miles of its road, two hundred and thirty of which are completed and in actual operation, and almost all of the remaining portion graded and ready for its ties and tracks, with many thousands of laborers at work on the same; and that it has, since it first commenced such construction, completed and in actual operation nearly eight hundred miles of its railway, and that in or before the year 1882 its whole line from its initial point will be completed to the eastern boundary line of the territory of New Mexico; and that it is the intention and purpose of your orator to proceed without delay to construct its line of railway west of said eastern boundary of New Mexico, on the route designated and located by your orator on the maps of surveys filed in the depart-

ment of the interior as heretofore herein shown, and demand the patents for the alternate sections of land reserved by the general Government of the United States.

And your orator further shows to your Honors that by said act of Congress of March 3, 1871, for the purpose of connecting your orator's railway with the city of San Francisco, the Southern Pacific Railroad Company of California was by said act authorized to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to your orator's road at or near the Colorado river, in California, and to no other point or points, or places on or near your orator's line.

And your orator is informed and believes that with full knowledge of said act of Congress of March 3d, 1871, and the rights of your orator thereunder, and with full notice of the location and filing of its map in the interior department and reservation and withdrawal of said lands from entry, pre-emption sale and occupation, the said Southern Pacific Railroad, in fraud of your orator's rights, illegally and in violation of law and the exclusive rights, privileges, and immunities granted to your orator, did, for the purpose of injuring, destroying, and rendering valueless its land grant and robbing it of its franchise, pretend to obtain a charter under the laws of the territory of New Mexico, under the name of the Southern Pacific Railroad Company (of New Mexico), the defendant herein.

And your orator further shows to your Honors that by virtue of said pretended charter (which your orator does not admit to be a legal incorporation), the said defend-

ant pretends it was and is authorized to construct a line of railroad across and through said territory of New Mexico, and the terminus of said pretended road being described in said act of incorporation: The western terminus at a point of connection with the Southern Pacific Railroad (of Arizona) on the western boundary with the thirty-second parallel of north latitude; the eastern terminus to be on the Rio Grande, at a point to be selected by the company, between Mosilla and the southern boundary of said territory.

And your orator further shows to your Honors that said charter and the pretended rights thereunder were obtained after your orator's rights, privileges, and immunities had become vested, and with full knowledge thereof, as heretofore more fully set forth, and after its exclusive right to build, construct, operate, and maintain its line of railway and telegraph over its designated routes as aforesaid had been recognized by the proper department of the United States.

Your orator further represents and charges that it has been informed and believes that the chief object of and the inducement to the Congress of the United States to incorporate your orator was to provide a competing line of railway, transcontinental in its objects and designs, with a view of affording to the commerce of the country cheap transportation, or at least transportation likely to be cheapened by competitive lines from the Atlantic to the Pacific coast. That defendant representing the same interest that it then owned and controlled, and now owns and controls, the Central Pacific of California, operating

and owning as it did the only railway communication with the Pacific Coast, extending from Ogden to San Francisco, confederated and conspired with others to defeat the objects of that congressional legislation by building the Southern Pacific of California and under other names and associations, constructing a line across Arizona, and more recently and now the line in question across the territory of New Mexico, and that these designs and purposes had for their chief, if not their sole, object the defeat of the purposes of the Government to provide for a competing line to their Central Pacific of California. And if their unlawful acts and doings in the construction of said line or lines be not so declared by the Courts, the same parties owning and controlling the Central Pacific of California will operate the other and more southerly railroad to the Pacific coast, to wit, the line in question, and thereby prevent and defeat the establishment and operation by your orator of said competing line.

And your orator shows further that the said defendant has actually constructed its said road across the greater portion of the territory of New Mexico, in and upon and very near to said located line of your orator without its consent, and with full knowledge and in fraud of your orator's rights in the premises, well knowing of the active operations of your orator in the completion of its road through the State of Texas as aforesaid and in the direction of said designated line in New Mexico, and with full knowledge that your orator was moving rapidly with its road westward on its designated route. Yet said defendant has hurried its work forward for the fraudulent and

illegal purpose of occupying your orator's line, and to exclude your orator therefrom, and of preventing your orator from all use and enjoyment of its said lands, privileges and immunities, and is rapidly completing the same, and will, unless restrained by the interposition of this court, continue to occupy the same, and practically prevent your orator from occupying any part thereof, and will in effect forever exclude your orator from any and all use and enjoyment of the land, and every part thereof, so granted as aforesaid to your orator by the United States Government, and so reserved from sale by the department of the interior. And your orator further shows to your Honors that at such points as the line of said defendant's road is not located and constructed or in close proximity to the said line of your orator, as located, designated, and filed in the department of the interior, yet the said defendant to injure and oppress your orator has located and constructed its said railroad the entire distance across the territory of New Mexico, actually within the line of and upon the reservation of your orator in said territory—that is to say, inside of the boundaries of the lands so set apart to your orator and specially withdrawn from sale by the department of the interior, and the constructed line of said defendants has in fact so far encroached upon your orator's reservation as to actually occupy a large portion of the same, without any legal or equitable right so to do, and without the consent of your orator, and to its irreparable injury, which, if persisted in, as it threatens to and will do unless said defendant be restrained by this Court, all of said lands and all of said

reservation, now the property of your orator, will, to all intents and purposes, become lost and valueless to your orator, and your orator will be practically and essentially prevented from ever hereafter extending its said road to the Pacific Ocean, as was originally contemplated by its charter, and its franchise will be rendered comparatively valueless.

The line occupied by defendant is substantially as follows: Beginning at a point on the western boundary of said territory of New Mexico on said 32d parallel of north latitude, about four to six miles south of the above-mentioned beginning point of your orator's designated and located line, and within the limits of said reservation at or near a place called Stein's Pass, thence running in a northeasterly direction and approaching your orator's exact line, and running nearer and nearer thereto until it crosses the same, and thence northeasterly to a point near Ralston, about eight miles north of the said Leitendorf's Wells; thence in a southeasterly direction approaching nearer and nearer to your orator's said line until it again crosses the same and proceeding in said southeasterly direction to a point a few miles south of said Soldier's Farewell, and about eight miles south of your orator's said line, turns again in a northeasterly direction and approaching nearer and nearer, again crosses your orator's said line, and thence proceeding eastwardly and almost touching your orator's line about the new town of Deming, and thence to the Rio Mimbres, and crossing the same about four miles above the place where your orator's line crosses said river, and thence running alongside

your orator's said line, not more than four miles from the same at the farthest point for more than fifty miles, until it strikes the eastern boundary of New Mexico, on the Rio Grande. And so, by an inspection of said map which is referred to, your Honors will perceive that the said railroad of defendants encroaches upon and substantially occupies the whole of your orator's said designated line, practically monopolizes the same, and if not prevented by the Courts will exclude your orator from any practical or valuable use and benefit of the same. Your orator believes that the above delineation of defendant's line is correct. Your orator instituted search in the department of the interior for a map or profile of said line, but did not find one, and now charges that none has been filed.

And your orator further shows to your Honors that it has in writing notified the Southern Pacific Company, defendant, that it is proceeding in violation of the law in building and constructing its line of road over and through your orator's right of way and land grant, and requested it to desist and refrain from interfering with said right of way or reservation; that your orator claimed, by virtue of its exclusive rights and privileges, the railroad fixtures, structures, and appurtenances constructed by defendant, and requested defendant not to interfere with or further use or destroy your orator's franchise, and that said Southern Pacific Railroad Company of New Mexico has not complied with the reasonable request of your orator as in justice and equity ought to have done, but said defendant is still constructing and operating said line in violation of your orator's rights. Copies of all said writ-

ten notices given defendant before the filing of this bill will be filed on or before the hearing, marked "Exhibit C."

And your orator further represents and charges that the construction of the railway line through New Mexico by defendant as aforesaid was and is a trespass upon the rights of your orator; and that your orator, being the owner in the manner herein stated of the land upon which the same is constructed and now being operated, is entitled to the railway, depots, and depot property, and all other fixtures constructed and erected upon said lands by defendant, and your orator now here asserts to the Court its right to said property as well as its use and occupation, and invokes the aid of the Honorable Court to remove the defendant therefrom, and place your orator in complete possession and control of all said property under such orders of the Court as may be consistent with law and the right and equity of the parties, and at the same time perpetually enjoin defendant and all parties claiming by, through, under, or with it from interfering with or using said property.

And your orator is advised and believes and therefore claims that the aforesaid charter, a copy of which is annexed as "Exhibit D," and the rights that said defendant pretends to claim under it in so far as same infringes, violates, disregards, impairs or destroys the rights, privileges, and immunities of your orator in and to the land grant or land reservation of your orator, or the exclusive right of your orator to patent the alternate sections of land in said reservation do impair the obligation of contracts solemnly

made and entered into, by and between the United States and your orator; and that all of the acts and doings of said defendant in pursuance of any pretended rights under said charter are contrary to law, and are in so far null and void as to confer upon it no right whatever to use, maintain, operate, or own, or claim any part or portion of the railway it has constructed over, upon, and along your orator's located and established line, and that the continuation of the acts of the said defendant, as above set forth, are contrary to equity and good conscience, and tend to the great wrong and injury of your orator.

But now so it is, may it please your Honors that the said defendants, combining and confederating with the said Southern Pacific Railroad Company of California, and with the owners of said railroad and divers other persons to your orator at present unknown, whose names, when discovered, your orator prays, if necessary, may be made parties hereto, pretending that said defendant has a lawful right to occupy defendant's said designated line of road and reserved lands, and thus to greatly injure and impair your orator's right and franchises, has constructed its line nearly across the territory of New Mexico, upon your orator's line and within your orator's reservation, and has thus illegally and without competent authority practically monopolized said entire line and said reservation, shutting complainant off from the same, and the said defendant, in further fraud of your orator's rights, is hurriedly progressing in the work of construction and in the face of the rapid approach of your orator toward the said territory of New Mexico, with its line across the conti-

nent, is now building its said road toward the eastern boundary of New Mexico in such haste as to show that is the intention and purpose of the defendant to occupy the whole of your orator's line, and to forever exclude your orator so far as it is in the power of the defendant from any and all use and enjoyment of its said line and its said reservation—all of which acting, doings, and pretenses is contrary to equity and good conscience, and tend to the manifest wrong and injury and oppression of your orator.

The premises considered, your orator prays that said, the Southern Pacific Railroad Company of New Mexico, may be made defendant to this bill, and that all proper and necessary process issue requiring defendant to make answer thereto, and to each and every allegation therein contained as fully as if particularly interrogated thereto, and especially that defendant make full and complete and specific answers to all the following numbered interrogatories as by the note hereunder written the said defendant is required to answer, that is to say:

1st. Whether or not the Southern Pacific Railroad Company of California and the Southern Pacific Railroad Company of Arizona, and the Southern Pacific Railroad Company of New Mexico are not in truth and in fact one and the same corporation, and whether they are not managed, controlled, and operated by the same persons having large interests in both companies; and

2d. Whether or not the same officers, in effect, if not form, manage all of said companies, and their directors and principal stockholders in said road the same in each company, and whether or not said companies are man-

aged and controlled as one and the same, and if it is not the purpose and intention of the persons controlling said corporation that the same shall be operated on completion as one and the same line; and

3d. Whether or not said C. P. Crocker subscribed to one thousand nine hundred and eighty out of two thousand shares of said capital stock for himself or for the benefit of said Southern Pacific Railway Company of California, and whether or not said Southern Pacific Railroad Company of California paid the assessment of ten per cent, or reimbursed him for such assessment; and

4th. Whether or not said Southern Pacific Railroad of California or Arizona and New Mexico, one or all of them, are not leased to and operated by and under the management of the Central Pacific Railway, and whether or not the C. *D.* Crocker, president of the Southern Pacific Railroad of New Mexico, is not the same C. P. Crocker, vice-president of the Southern Pacific Railroad of California.

And your orator further prays that the said Southern Pacific Railroad Company of New Mexico be enjoined from further building, constructing, or in any manner continuing its work upon the unfinished portion of its said railroad at any and all points in said territory of New Mexico, in, upon, and near the designated line of your orator in said territory, as above described, and at all points within the boundary lines of your orator's said land reservation—that is to say, any and all places and points within a space of forty miles on each side of your orator's said designated and located line; and that said defendant be enjoined and restrained from operating,

working, maintaining, or in any manner using its said railroad line already constructed, or any fixtures, structures, or appurtenances thereto in any manner belonging at any, all, and all points in said territory of New Mexico wherever the same has been built, constructed, and finished, and are now being used by defendant in, upon, and near your orator's said designated line of railroad, and at any and all places within the said land reservation of your orator, extending, as aforesaid, forty miles on each side of your orator's said designated railroad line; and to that end that writs of injunction issue from your Honor's court to be served upon the proper officer or officers of defendant (said incorporation), enjoining defendant and all its agents, employees, laborers, and servants from doing and performing any act whatever in and toward the further construction of defendant's said unfinished road, and from doing and performing any act in working, running, or in any manner operating any of said finished road as aforesaid, or using or interfering with any fixtures, structures, building, or improvements erected by defendants in the construction of and for the use of its said railroad in said territory, and within the limits aforesaid, and that at the hearing hereof said injunction be made perpetual, and that in the meantime that a temporary restraining order be issued until the time fixed by your Honors for said defendant to show cause why the injunction prayed for herein should not issue; that a receiver be appointed by the Court to take into possession all of said railway of defendant lying within the limits of your orator's reservation as aforesaid; that both that part finished and unfin-

ished, and all the improvements, fixtures, and structures thereto appurtaining to the end that said property may be managed, controlled, and properly cared for under the orders of the Court until the final hearing hereof, with all proper orders, judgment, and decrees for the government of said receiver, and the safe and proper custody and management of said property, and that said receiver be required to give bond and security for the faithful discharge of his duties, and at the hearing your orator prays that a decree be rendered devesting all the right and title which the defendant has or may have or claim in and to said railroad, and all its fixtures, structures, improvements, and property of every nature and every part thereof in said territory of New Mexico and within the limits of your orator's said reservation, and vest them in your orator upon such terms and conditions as the Court may deem right and proper, having due regard to whatever rights and equities may be shown to properly belong to the parties hereto, both complainant and defendant, and the said Southern Pacific Railroad Company, its officers, agents, attorneys, and solicitors be restrained from trespassing, disposing, selling, or conveying said railroad or any part thereof pending the final hearing of this cause; that all orders and decrees be made transferring all said property to your said orator, and clothing your orator with the possession, control, and use of said property and use thereof, and to that end that proper writs of restitution and possession issue to carry into effect said order and decrees of your Honor's court.

And if mistaken in its special prayer, your orator prays

for such other, further, and general relief as your orator may be entitled to in the premises, etc.

(Note.—The defendant is required to answer all of the above special interrogatories.)

THE TEXAS & PACIFIC RAILWAY.

By H. M. HERMAN,

Its Solicitor.

JOHN F. DILLON, and

WAGER SWAYNE, of New York,

Of Counsel, and

A. J. FOUNTAIN,

Of Mesilla, N. M.

State of Texas, }
County of Dallas. } ss.

On this the 11th day of May, A. D. 1881, before me, personally appeared John C. Brown, vice-president and one of the officers of the Texas and Pacific Railway Company, and made oath that he has read the above bill subscribed by its attorney and solicitor, and that he knows the contents, and that the same is true of his own knowledge, except as to matters of information and belief, and as to those matters he believes them to be true.

JNO. C. BROWN.

Sworn to and subscribed this 11th day of May, 1881.

J. E. WOLF,

Notary Public, Dallas County, Texas.

EXHIBIT "A."

An act to incorporate the Texas & Pacific Railroad Company, and to aid in construction of its road, and for other purposes.

Sec. 8. That the right of way through the public lands be, and the same is hereby, granted to the said company for the construction of the said railroad and telegraph line, and the right, power and authority is hereby given to said company to take from the public lands adjacent to the line of said road, earth, stone, timber, and other materials for the construction thereof. Said right of way is granted to said company to the extent of two hundred feet in width on each side of said railroad where it may pass over the public lands; and there is also hereby granted to said company grounds for stations, buildings, workshops, wharves, switches, sidetracks, turntables, water stations, and such other structures as may be necessary for the said railroad, not exceeding forty acres of land at any one point.

Sec. 9. That for the purpose of aiding in the construction of the railroad and telegraph line herein provided for, there is hereby granted to the said Texas Pacific Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile on each side of said railroad line as such line may be adopted by said company, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad in California, where the same

shall not have been sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached at the time the line of said road is definitely fixed. In case any of the said lands shall have been sold, reserved, occupied, or pre-empted, or otherwise disposed of, other lands shall be selected in lieu thereof by said company under the direction of the secretary of the interior in alternate sections and designated by odd numbers, not more than ten miles beyond the limits of said alternate section first above named, and not including the reserved numbers. If, in the too near approach of the said railroad line to the boundary of Mexico, the number of sections of land to which the company is entitled cannot be selected immediately on the line of said railroad or in lieu of mineral lands excluded from this grant, a like quantity of unoccupied and unappropriated agricultural land in odd numbered sections nearest the line of said railroad may be selected as above provided; and the word "mineral," where it occurs in this act, shall not be held to include iron or coal; provided, however, that no public lands are hereby granted within the State of California further than twenty miles on each side of said road, except to make up deficiencies as aforesaid, and then not to exceed twenty miles from the lands originally. The term "ship's channel," as used in this bill, shall not be construed as conveying any greater right to said company to the water-front of San Diego bay than it may acquire by gift, grant, purchase, or otherwise, except the right of way as herein granted; and provided further, that all such lands so

granted by this section to said company which shall not be sold or otherwise disposed of as provided in this act within three years after the completion of the entire road shall be subject to settlement and pre-emption like other lands, at a price to be fixed by and paid to said company, not exceeding an average of $2.50 per acre for all lands herein granted.

Sec. 12. That whenever said company shall complete the first and each succeeding section of twenty consecutive miles of said railro l and put it in running order as a first-class road in all its appointments, it shall be the duty of the secretary of the interior to cause patents to be issued conveying to said company the number of sections of land opposite to and *continuous* with said completed road *to which shall be* entitled for each section so completed. Said company, within two years after the passage of this act, shall designate the general route of said road as near as may be, and shall file a map in the department of the interior, and when the map is so filed, the secretary of the interior, immediately thereafter, shall cause the lands within forty miles on each side of the designated route within the territories, and twenty miles in the State of California, to be withdrawn from pre-emption, private entry, and sale; provided, however, that the act of September, 1841, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads," approved May twenty, 1862, and the amendments thereto, shall be, and the same are hereby, extended to all of the lands of the United States on the line of the said road when surveyed except those hereby granted to said company.

Sec. 19. That the Texas Pacific Railroad Company shall be, and is hereby, declared to be a military and post road; and for the purpose of the insuring of the carrying of the mails, troops, munitions of war, supplies, and stores of the United States, no act of the company nor of any State or territory shall impede, delay, or prevent the said company from performing its obligations to the United States in that regard; provided, that said road shall be subject to the use of the United States for postal, military, and all other governmental purposes at fair and reasonable rates of compensation, not to exceed the price paid by private parties for the same kind of service, and the government shall at all times have the preference of the use of the same for the use aforesaid.

Sec. 23. That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco the Southern Pacific Railroad Company is hereby authorized (subject to the law of the State of California) to construct a line of railroad, from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to the said Southern Pacific Railroad Company of California by the act of July twenty-seventh, 1866; provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company.—Approved March 3d, 1871.

An act supplementary to an act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy-one.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled: That the name and style and title of the Texas Pacific Railroad Company shall hereafter be "The Texas & Pacific Railway Company," and the said the Texas & Pacific Railway Company shall have, possess, and enjoy all rights, privileges, and franchises heretofore conferred upon the Texas Pacific Railroad Company.

Sec. 5. That the said Texas & Pacific Railway Company shall commence the construction of its road at or near Marshall, Texas, and proceed with its construction under the original act and this supplement, or in pursuance of the authority derived from any consolidation as aforesaid, westwardly from a point near Marshall and toward San Diego, in the State of California, on the line authorized by the original act, and so prosecute the same as to have at least one hundred consecutive miles of railroad from said point complete and in running order within two years after the passage of this act, and so continue to construct each year thereafter a sufficient number of miles, not less than one hundred, to secure the completion of the whole line, from the aforesaid point on the eastern boundary of the State of Texas to the bay of San Diego, in the State of California, as aforesaid, within ten years after the passage of this act; and said road from

Marshall, Texas, throughout the length thereof shall be of uniform gauge; provided, however, that the said company shall commence the construction of said road from San Diego eastward within one year from the passage of this act, and construct not less than ten miles before the expiration of the second year, and after the second year not less than twenty-five miles per annum in continuous line thereafter between San Diego and the Colorado river, until the junction is formed with the line from the east at the latter point or east thereof; and upon failure to so complete it, Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion; and it shall be lawful for said company to commence and prosecute the construction of its line from any other point or points on its line; but nothing in this act contained shall be so construed as to authorize the grant of any additional lands or subsidy of any nature or kind whatsoever on the part of the Government of the United States; provided, that said Texas & Pacific Railway Company shall be, and is hereby, authorized and required to construct, maintain, control, and operate a road between Marshall, Texas, and Shreveport, Louisiana, or control and operate any existing road between said points of the same gauge as the said Texas & Pacific Railroad; and that all roads terminating at Shreveport shall have the right to make the same running connections, and shall be entitled to the same privileges for the transaction of business in connection with the said Texas & Pacific Railway as are granted to roads intersecting therewith; provided, further, that nothing herein shall be construed as chang-

ing the terminus of the said Texas & Pacific Railway from Marshall as provided in the original act.

EXHIBIT "B."

Pacific R. R. Record.

Vol. 1, Page 521.

Department of the Interior.

General Land Office,

Washington, D. C., November 22, 1871.

Register and Receiver, Santa Fe, New Mexico.

Gentlemen: The Texas Pacific Railroad Company having filed a map of the proposed line of their road from El Paso to San Diego, Cal., as required by the 12th section of the granting act March 3d, 1871, I herewith transmit a map showing, as near as may be, the line of said road through the territory of New Mexico, together with the limit of 40 miles on each side of the route, and in accordance with the requirements of the act, you are hereby directed to withdraw from pre-emption or homestead entry or sale all the odd-numbered sections of land falling within said limits. The even numbered sections you will hold at the double minimum price of $2.50 per acre, and dispose of at that ratability, and under the pre-emption and homestead laws only.

As this *of* the first grant of lands and order of withdrawal pertaining to railroads in New Mexico, I call your attention:

1st. To the provisions of the homestead act, which limits entries on double minimum lands to 80 acres, ex-

cept to soldiers of the late war, who are allowed to take 160 acres, as indicated on page 6 of accompanying circular, and form of affidavit on page 26.

2d. In payment by pre-emptors, the party may pay with the military land warrants, or agricultural college scrip and cash. In payment with warrants or scrip, the warrant must be of the same denomination in acres as the tracts, and is receiveable acre for acre, rating the warrant or scrip at $1.25 per acre, and the additional payment must be made with cash at the rate of $1.25 per acre. The certificate of location must issue for the whole tract, and on the warrant or scrip location the receiver issuing an excess receipt for the cash and accounting for the money in his cash returns, but not bringing the acres into the cash footings, they appearing properly in his warrant abstract.

The register will issue no certificate of sale on such excess of payments.

3d. Where a party may establish his claim to either the odd or even sections within the limits of the grant, in accordance with the requirements of the pre-emption laws showing settlement prior to the withdrawal, he will be entitled to the land at $1.25 per acre.

The withdrawal will take place upon date of the receipt of this letter at your office, and you will immediately upon its receipt acknowledge same by letter to this office.

The map herewith indicates only the preliminary line of road and withdrawal, and the same will be adjusted permanently as the surveys shall progress and the company file their map of definite location. Until you re-

ceive further instructions from this office, however, you will be governed by the lines laid down on the map herewith.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

U. S. Landoffice at La Mesilla, N. M.,
May 19, 1881.

I hereby certify that the foregoing is a true and correct copy of the original letter of the commissioner of the general landoffice.

GEO. D. BOWMAN,
Register.

EXHIBIT "D."

Department of the Interior.

General Land Office,
April 19, 1881.

I, C. W. Holcomb, acting commissioner of the general landoffice, do hereby certify that the annexed, from page one to page twelve, both inclusive, are true and literal exemplifications of the originals on file in this office, being papers relating to the Southern Pacific Railroad, of New Mexico territory, filed under an act of Congress, approved March three, 1875, entitled "An act granting to railroads the right of way through the public lands of the United States."

In testimony whereof, I nave hereunto subscribed my hand and name and caused the seal of this office to be af-

fixed at the city of Washington, on the day and year above written.

[Seal] C. W. HOLCOMB,
Acting Commissioner of the General Landoffice.

We, whose names are hereunto annexed, citizens of the United States, do hereby certify that under and by virtue of the provisions of chapter one of the laws of the territory of New Mexico, entitled "An act to provide for the incorporation of railroad companies and the management of the affairs thereof, and other matters relating thereto," approved February 2d, 1878, have associated together for the purpose of forming a railroad corporation, and pursuant to the provisions of said act do declare and specify as follows:

1st. The name of the said corporation shall be the Southern Pacific Railroad Company of New Mexico.

2d. The purpose for which said corporation is formed shall be to construct and maintain and operate a railroad and telegraph line across that portion of the territory of New Mexico, between its western boundary and the Rio Grande, following as nearly as may be found practicable the 32d parallel of north latitude, the termini of said railroad and telegraph line being hereinafter more particularly stated and defined.

3d. The place where its principal business is to be transacted in the said territory is to be Santa Fe.

4th. The term for which it is to exist is to be fifty years.

5th. The number of directors is to be five. The name and residences of the persons who are appointed to act as such until their successors are elected and qualified are:

Names.	Residences.
Charles F. Crocker,	San Francisco, California.
Richard P. Hammond,	San Francisco, California.
John E. Foulds,	San Francisco, California.
William Breeden,	Santa Fe, New Mexico.
Lehman Speigelberg,	Santa Fe, New Mexico.

6th. The amount of the capital stock of the corporation is to be ten million dollars, that being the amount actually required for the purposes of the corporation as estimated by competent engineers, and the number of shares into which it is divided is one hundred thousand shares, of one hundred dollars each.

7th. The amount of the capital stock actually subscribed is two thousand shares, and by the following persons:

	No. of Shares.
Charles F. Crocker, San Francisco, Cal.....	1980
Richard P. Hammond, San Francisco, Cal.....	5
John E. Foulds, San Francisco, Cal.....	5
William Breeden, Santa Fe, New Mexico.....	5
Lehman Speigelberg, Santa Fe, New Mexico...	5
	2,000

8th. The termini of the road are to be as follows: The western terminus at a point of connection with the Southern Pacific Railroad (of Arizona) on the western bound-

ary of the said territory of New Mexico, as near as may be found practicable at the intersection of said western boundary with the 32d parallel of north latitude; the eastern terminus to be on the Rio Grande, at a point to be selected by the company between Mesilla and the southern boundary of said territory.

9th. The estimated length of the road is two hundred miles as near as may be.

10th. That at least ten per cent of its capital stock has been paid to Richard P. Hammond, who resides at San Francisco, Cal., as the treasurer of the intended corporation; said sum of money amounting to twenty thousand dollars.

In witness whereof, we have hereunto subscribed our names this the 14th day of April, 1879.

CHARLES F. CROCKER.
RICHARD P. HAMMOND.
J. E. FOULDS.
WILLIAM BREEDEN.
LEHMAN SPEIGELBERG.

County of Santa Fe.
Territory of New Mexico, } ss.

On this the 14th day of April, A. D. 1879, personally appeared before the undersigned, clerk of the District Court for the First Judicial District of the territory of New Mexico, the above-named Charles F. Crocker, Richard P. Hammond, J. E. Foulds, William Breeden, and Lehman Speigelberg, and acknowledged that they signed

the foregoing instrument of writing for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court the day and year last above mentioned.

[Seal] JOHN H. THOMPSON,
Clerk.

Territory of New Mexico, }
County of Santa Fe. } ss.

Richard P. Hammond, being duly sworn, deposes and says that he resides at San Francisco, State of California; that he has been appointed a treasurer to the intended corporation by the subscribers to the foregoing articles of incorporation, who have subscribed the same in person, to receive the moneys required by the laws of the territory of New Mexico referred to in said articles to be paid upon said subscriptions before said articles are filed; that the requisite amount of the capital stock of the intended corporation has been actually subscribed, to wit, two thousand shares, and that ten per cent thereof, to wit, the sum of twenty thousand dollars, has been actually paid to him for the benefit of said corporation, and the amount actually paid in is twenty thousand dollars.

RICHARD P. HAMMOND,
Treasurer.

Subscribed and sworn to before me this the 14th day of April, A. D. 1879.

[Seal] JOHN H. THOMPSON,
Clerk of the First Judicial District Ct., N. M.

[Endorsed]:

The Southern Pacific Railroad Company of New Mexico.

Secretary's Office, Territory of New Mexico.

Received and filed for record April 14th, 1879, at 10:45 A. M., volume 1, Miscellaneous Records, pages 76, 77, 78, 79.

W. G. RITCH,
Secretary of N. M.

Secretary's Office, Territory of New Mexico.

I, W. G. Ritch, secretary of the territory of New Mexico, do hereby certify that I have compared the within and foregoing transcript of the certificate of incorporation of the Southern Pacific Railroad Company (of New Mexico), filed and entered of record in this office April 14th, 1879, at 10:45 A. M., with the original thereof, and that the same is a true and correct copy of the said original.

In witness whereof, I have hereunto set my hand and the seal of the secretary of this territory May 5th, A. D. 1880.

[Seal] W. G. RITCH,
Secretary.

Secretary's Office, Territory of New Mexico.

I, W. G. Ritch, secretary of the territory of New Mexico, do hereby certify that there is on file of record in this office a certificate of incorporation under the name of the Southern Pacific Railroad Company (of New Mexico), stated in the body of the said certificate to be under and by virtue of the provisions of chapter one of the laws of the territory of New Mexico, entitled "An act to provide

for the incorporation of railroad companies and the management of the affairs, and to other matters relating thereto," approved February 2d, 1878, and the purpose for which said corporation is formed shall be to construct, maintain, and operate a railroad and telegraph line across that portion of the said territory of New Mexico between its western boundary and the Rio Grande following as nearly as may be found practicable the 32d parallel of north latitude. I further certify that said certificate of incorporation was filed and recorded in volume one, Miscellaneous Records, pages 76, 77, 78, and 79, on the 14th day of April, A. D. 1879.

In testimony whereof, I hereunto set my hand and official seal this the 4th day of May, 1880.

[Seal] W. G. RITCH,
Secretary N. M.

State of California,
City and County of San Francisco. } ss.

Charles F. Crocker, being duly sworn, says that he is the president of the Southern Pacific Railroad Company (of New Mexico), and that the following is a true list of the officers of said company, with the full name and official designation of each, to wit: Charles F. Crocker, president; William Breeden, vice-president; Richard P. Hammond, treasurer; John E. Foulds, secretary; George E. Gray, chief engineer.

CHARLES F. CROCKER,
President of the Company.

Sworn and subscribed to before me this the 14th day of June, A. D. 1880.

[Seal] CHARLES J. TORBERT,

Notary Public in and for the City and County of San Francisco, State of California.

I, J. E. Foulds, secretary of the Southern Pacific Railroad Company (of New Mexico), do hereby certify that the organization of said company has been completed; that the company is fully authorized to proceed with the construction of the road according to the existing laws of the territory of New Mexico, and the following seven pages are a full, true, and correct copy of the articles of incorporation of the company.

In witness whereof, I have set my name and the corporate seal of the company, June 14th, 1880.

[Seal] J. E. FOULDS,

Secretary of the Southern Pacific Railroad Company of New Mexico.

9 Nassau St., New York, July 1st, 1880.

Hon. Carl Schurz, Secretary of the Interior, Washington, D. C.

Dear Sir: I enclose you herewith a copy of the articles of incorporation of the Southern Pacific Railroad Company (of New Mexico), which is duly certified to by the secretary of the company, under its corporate seal, and due proofs of its organization under the same as required by the act of Congress, approved March 3d, 1875, "granting to railroads the right of way through the public lands of the United States," together with copy of the territo-

rial law of New Mexico, under which the company was organized, with certificate of the secretary of the territory, that the same is the existing law; also his certificate of the filing of the articles of association in the office of the said secretary of the territory, with the date of said filing; also the official statement of the secretary of the company that the organization has been completed, and that the company is fully authorized to proceed with the construction of its road according to the existing law of the territory, and that the copy of the articles filed with the secretary of the interior is correct; and also a true list duly verified by the sworn statement of the president under the seal of the company, showing the names and designation of its respective officers, required by the circular of instructions of the department of the interior, dated March 9th, 1878. Very respectfully yours,

C. P. HUNTINGTON,
A. & A.

I, W. B. Walton, clerk of the District Court of the Third Judicial District of the territory of New Mexico, do hereby certify that the above and foregoing is a true and correct copy of the bill in chancery, wherein the Texas Pacific Railroad Company is complainant and the Southern Pacific Railway Company of New Mexico et al. are defendants, as the same appears of record in my office.

Witness my hand and the seal of said Court this 25th day of October, A. D. 1895.

[Seal] W. B. WALTON,
Clerk.

[Endorsed]: No. 587. Ex. 22. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 22. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 23.

M. N. (4-207.) S. S. M.

"F." Department of the Interior.

General Landoffice,

Washington, D. C., October 4th, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed copy of a letter from the register of the United States landoffice at Los Angeles, dated April 1, 1873, is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

Communications to this office requiring an answer should be accompanied by a P. O. stamp.

U. S. Landoffice, Los Angeles, California.

Register's Office, April 1, 1873.

Hon Willis Drummond, Com. Genl. Landoffice, Washington, D. C.

Sir: In reply to your letter "A" of March 8, 1873, I have to report that your letter of Sept. 27, 1871, ordering a

withdrawal of lands for the Texas Pacific Railroad was received at this office and filed on the 15th Oct., 1871.

Very respectfully,

ALFRED JAMES,
Register.

[Endorsed]: Landoffice at Los Angeles, Cal., April 1, 1873. Register reports in relation to Texas P. R. R. withdrawal. P. Alfred James, Register. 1-255. No Answer Reqd. Buxton. F. Apl. 16, 1873.

(587.) Ex. 23. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 23. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 24.

J. I. P.

A. M.
E. H. H.
M. C. M. N.

(Vignette)

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Nov. 27, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original, with its endorsement, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal]

WM. H. SIMS,
Acting Secretary of the Interior.

E. W.

[Stamped in red ink:] Department of the Interior. Jul. 30, 1879.

Texas & Pacific Railway Company.

Office, 50 Exchange Place,
New York, July 1st, 1873.

Hon. C. Delano, Secretary of the Interior, Washington, D. C.

Sir: In conformity with section 13 of the charter of this company, I have the honor to submit herewith a report exhibiting the financial situation of the Texas & Pacific Railway Co. on the 1st day of July, 1873, embracing in detail its business for the year ending at that date; together with a description of the lines of road surveyed and fixed upon for construction.

I am very respectfully yours,
THOMAS A. SCOTT,
President.

TEXAS AND PACIFIC RAILWAY COMPANY.

ANNUAL REPORT

to

DEPARTMENT OF THE INTERIOR.

July 1st, 1873.

Statement of the Financial Condition of the Texas and Pacific Railway Company on the first day of July, 1873.

Amount of money received and expended by the Texas and Pacific Railway Company from July 1st, 1872, to July 1st, 1873.

Receipts:	
From transportation of freight and passengers	$333,380.86
From accounts collectible	58,676.44
From interest	2,443.17
From cash on hand date of last report	79,335.18
From operating expenses unpaid (payrolls, etc.	23,028.16
	$496,863.81
Expenditures:	
For operating 66½ miles of road	$256,562.19
For reduction of assumed debts of other roads	47,810.39
For bills payable	89,565.10
For interest and exchange	15,917.71
For improvement of road	8,802.02
For change of gauge	10,309.80
For general expenses	39,702.63
For supplies on hand	25,906.43
For cash on hand this date	2,287.54
	$496,863.81

Operating receipts and expenditures Texas and Pacific Railway Company from July 1st, 1872, to July 1st, 1873—66½ miles of road.

Receipts:	
From passengers	$104,392.44
From freight	223,211.99
From U. S. Mails	5,328.00
From miscellaneous	448.43
	$333,380.86
Expenditures:	
For conducting transportation	$ 51,994.43
For maintenance of roadway	111,044.00
For cost of running and maintenance of motive power and cars	62,370.20
For general expenses	31,153.56
	$256,562.19

Receipts over expenditures, $76,818.67.

Indebtedness of the Texas and Pacific Railway Company, and the various kinds thereof, on the first day of July, 1873:

Capital Stock.

Subscribed $2,000,000. Paid 1st installment, $200,000 ..... $2,000,000

Bonded Debt.

The bonds of the company consist of two kinds, viz: First mortgage six per cent Gold Construction Bonds, dated June 1st, 1872; mature June 1st, 1912. Principal and interest payable in New York or London at option of holder. Denomination, $1,000. Authorized issue, forty thousand dollars per mile of constructed and equipped road.

First Mortgage Land Grant.

Seven per cent currency bonds, dated July 1st, 1872; mature July 1st, 1912. Principal and interest payable in New York. Denomination, $1,000. Authorized issue, $20,000,000. Of the Construction Bonds none have been issued.

Of the Land Bonds there has been issued in the purchase of consolidated roads.....	$4,000,000
Debt So. Pacific R. R. Co. to State of Texas assumed by the Texas & Pacific Ry. Company	209,126.31
Floating debt.....	790,095.71
Interest coupons on land bonds due this date.....	140,000.71
	$7,139,222.02

Assets Texas & Pacific Railway Co. July 1, 1873:

Roads Consolidated.

66½ miles constructed and equipped road, from Shreveport to Longview, cost....	$3,933,601.55
Property and franchises, So. Trans. Continental Ry. Co.....	1,000,000.00
Improvement on road in operation.....	19,111.82
Supplies on hand.....	29,406.43
Stock subscriptions uncalled.....	1,800,000.00
Cash and cash assets.....	41,661.42
Bal. to debit profit and loss.....	315,440.80
	$7,139,222.02

Names and residences of officers and stockholders:

Officers.

President,	Thomas A. Scott,	Philadelphia.
Vice-president,	William A. Wallace,	Clearfield, Pa.
Treasurer,	Edwards Pierrepont,	New York.
Secretary,	Emanuel B. Hart,	New York.

Directors.

Thomas A. Scott,	Philadelphia.
Edwards Pierrepont,	New York.
William A. Wallace,	Clearfield, Pa.
J. W. Throckmorton,	McKinney, Texas.
A. J. Cassatt,	Philadelphia.
Albert Hewson,	Philadelphia.
Joseph Lesley,	Philadelphia.
H. C. Spackman,	Philadelphia.
William S. McManus,	Reading, Pa.

Stockholders.

Thomas A. Scott,	Philadelphia, Pa.
William A. Wallace,	Clearfield, Pa.
A. J. Cassatt,	Philadelphia, Pa.
H. C. Spackman,	Philadelphia, Pa.
J. W. Throckmorton,	McKinney, Texas.
Joseph Lesley,	Philadelphia, Pa.
Edwards Pierrepont,	New York City.
William S. McManus,	Reading, Pa.
Albert Hewson,	Philadelphia, Pa.
John McManus,	Reading, Pa.
W. C. Kimball,	San Diego, Cal.

A. C. Babcock,	Canton, Ill.
H. W. Gray,	New York City.
J. S. Harris,	San Diego, Cal.
California & Texas Railway Construction Co.,	Pennsylvania.
Marshall O. Roberts,	New York City.
E. W. Rice,	Washington, D. C.
Samuel Tate,	Jackson, Miss.
W. T. Walters,	Baltimore, Md.

Number of miles of road constructed from July 1st, 1872, to July 1st, 1873:

109 miles completed.

355 miles, graded, bridged, and tied.

The expenses of construction do not enter into the accounts of this company until the sections now in process of construction are completed and accepted by the proper authorities.

Description of the lines of road surveyed and fixed upon for construction:

Since the date of the last report to the department, July, 1872, the engineers in charge of the surveys have run over 8,000 miles of instrumental lines, and made 15,000 miles of reconnoissance, developing a country 1,500 miles long east and west, and 150 miles in width north and south, so thoroughly that the line of location from Red river to the Pacific can very nearly be determined.

The lines of road surveyed and in part undergoing construction are as follows:

Southern Division.—Longview, Texas, to Fort Worth.

Jefferson Division.—Marshall to Texarkana.

Transcontinental Division.—Texarkana to Fort Worth.

Brazos Division.—Fort Worth to the 100 meridian.

Pecos Division.—100 Meridian to Rio Grande river.

New Mexico Division.—Rio Grande river to the Pimas Villages.

California Division.—Pimas Villages to San Diego, Cal.

Distances:	Miles.
Marshall to Texarkana	69
Texarkana to Fort Worth	237
Longview to Fort Worth	155
Fort Worth to San Diego	1,419
	1,880

Table of grades, Longview to San Diego.

	Miles Ascending.	Miles Descending.
0 to 10 feet per mile	87	133
10 to 20 feet per mile	164	141
20 to 30 feet per mile	74	61
30 to 40 feet per mile	73	91
40 to 50 feet per mile	42	53
50 to 60 feet per mile	77	91
60 to 70 feet per mile	58	48
70 to 80 feet per mile	24	32
80 to 90 feet per mile	8	6
90 to 100 feet per mile	6	2
100 to 110 feet per mile	29	28
Level, 289 miles.		
Total Ascent,	23,169 feet.	
Total Descent,	23,497 feet.	

Greatest altitude reached in crossing the continent, 6,355 feet.

The road under construction from Longview to Fort Worth, known as Southern Division, passes almost due west from Longview, Texas, following the valley of the Sabine for 50 miles through the counties of Upshur and Wood, crossing the Sabine river, in Kauffman county, leaves the timber 25 miles west of the Sabine, strikes the prairie, and at Dallas crosses the Trinity river, following the valley of that river to Fort Worth, distance 155 miles.

Jefferson division starts from Marshall, Texas, bears due north to Jefferson, thence in a northeasterly direction, crossing the Sulphur river about ten miles west of the State line, connecting with the Transcontinental Division five miles west of a point of the State boundary known as Texarcana; distance 69 miles.

Transcontinental Division passes through the counties of Bowie, Red River, Lamar, and Fannin, following the divide between the Red and Sulphur rivers into Grayson county, and through the county towns of Clarksville, Bonham, Paris, and Sherman. From Sherman it runs almost directly south, passing through Denton and Tarrant counties to Fort Worth; distance 237 miles.

The foregoing comprise the three lines east of Fort Worth undergoing construction.

The line from Fort Worth to San Diego, upon which the surveys have been made, has been divided into the following divisions:

Brazos Division.—Extending from Fort Worth, Texas to the 100 meridian; distance about 175 miles: The surveys on this division have demonstrated as practicable the two following routes, the latter of which will probably be adopted:

1. The one known as the Southern Route, starting from Fort Worth, following the south fork of the Trinity river, crossing the Brazos river near the mouth of the Palo Pinto creek, following that creek to its head; thence to the head waters of Leon river; thence either north or south of the Deep creek mountains; thence westwardly on the divide between the Brazos and Colorado rivers, striking the 100 meridian in latitude 31° 30: This line runs through a heavy country, with maximum grades of 66 feet; is fairly timbered, with abundance of material and rock for structures; water over a portion of it is scarce.

2. The northern line leaving Fort Worth follows the south fork of Trinity river to near Weatherford; thence strikes directly north through Parker and in the northern boundary of Palo Pinto county, keeping to the north of the Brazos and crossing it near the north of Caddo creek; thence along its south valley to near the mouth of Hubbard's creek, whence it crosses again to the north valley and recrosses the Brazos just east of Fort Griffin, following one of its tributaries; avoiding the great bend of the Brazos, and crossing Clear fork of the Brazos, strikes California creek near the mouth of Otey's creek, which it follows to Double mountain fork. All the lands on this division are susceptible of cultivation, are rolling, well

watered, a portion finely timbered, and fair stock ranges. It includes a large portion of the great wheat-growing region of Texas, and is now receiving a large population of northern immigration. Its crop consist of cotton, wheat, and corn, and is well adapted to the production of all the southern fruits.

Pecos Division.—Extending from the 100 meridian to the Rio Grande river; distance 412 miles: Two general lines have been run across this division.

The northern line starts from Fort Phantom Hill, lat. 32°, 35′, 30″, long. 99°, 38′, 30″, by our observations, passing west, up North Elbow creek, turns the head waters of the Red Fork of the Colorado, crosses North Concho river, and is a tangent line for 80 miles after striking the Staked Plains, long. 102° west, and crosses the Pecos at the mouth of Delaware creek; thence following the Delaware to its head, climbs the Guadalupe mountain range in order to reach Guadalupe Pass, at an altitude of 6,355 feet, the highest elevation made in crossing the continent.

From the head of Delaware creek to Independence Springs, 17½ miles, the grade is 60 feet. The approach to the pass is made with 116 feet grade for 7½ miles.

In descending the west side of the mountains there are no continuous slopes, separate sharp spurs push in, and ravines that have to be crossed 400 feet high.

The total descent is 2,069.5 feet, made with an average grade of 116 feet.

From the foot of this road the line runs to the Salt lakes, passing to the south of the tanks, crosses the Los

Canudes at the Cottonwood Springs; strikes south and passes Hucco mountains through or south of the old stage route, and strikes the valley of the Rio Grande just north of Isletta and near Fort Bliss.

Two southern lines not yet completed are being examined; one follows down the Rio Grande from Fort Bliss, turns the Sierra Blanco north of Fort Quitman, passes due east through Carissa Pass, turning the Guadalupe mountains on the south, strikes the head waters of Toga creek, follows it to the Pecos, thence strikes over a rolling country to the head waters of the North Concho river, near the Big Springs; thence in a northeasterly direction on as near a direct line as practicable, intersecting the southern line of the Brazos division on the 100 meridian in lat. 31°, 50′. The other line passes the mountain about 40 miles southeast of Fort Quitman and north of Castle mountains, thence by the North Concho to Fort Chadburne. After crossing the Pecos, the Guadalupe range of mountains is encountered, giving the heaviest work and grades to overcome of any portion of the line in crossing the continent.

Land.—To the Pecos river is a rolling prairie, fairly watered; valleys of the streams are susceptible of high cultivation and yet open to settlement. The eastern portion is traversed by the Colorado, Concho, and Pecos rivers.

The uplands are the finest grazing portions of Texas: The lands adjoining and east of the Pecos are known as the Staked Plains; we cross them at their narrowest part some 60 to 80 miles in width. They have no running

water, but afford good pasturage. The country west of the Pecos is better watered and partially timbered. Heavy pineries are found on the slopes of the mountains, which either in continuous or detached ranges occupy most of the country from the Pecos to the Rio Grande. It is a fair pasturage country and is now used extensively for cattle and sheep; it also abounds in minerals.

North of this division lies the Pan Handle country, said to have large bodies of very fine agricultural and pasturage lands, to be well watered and the greater part susceptible of cultivation.

New Mexico Division.—Extending from the Rio Grande river to the Pimas villages; distance 388.85 miles.

Three general lines have been run across this division, all of them starting at Fort Bliss and following up the Rio Grande Valley to near Mesilla, keeping the two northern lines on or about the same ground to the Burro mountains.

One line to the north follows down the valley of the San Domingo, to the Gila, thence to the Pimas Villages; this line, owing to heavy grades and numerous canyons, is impracticable.

The center line passes westwardly from the Burro mountains, along latitude 32°, 40′, passing the Peloncello range at Peloncello Pass, and the Che-ra-ca-hin mountains at Railroad Pass; thence down the Arayropa canyon to the San Pedro, near Camp Grant, down the San Pedro to the Gila, and down the valley of the Gila to the Pimas Villages.

The Santa Cruz Valley line was run, leaving the last-named line at the San Pedro, running through Cienega

Pass, through to near Tucson, thence across the plains, following the valley of the Santa Cruz to the Pimas villages.

A line is now being run from the crossing of the San Pedro about lat. 31°, 30′, through the Dragoon mountains, and immediately on the border of Mexico, which will soon be completed to the Rio Grande. From indications this line will probably be considered impracticable.

The route that will evidently be adopted through New Mexico and Arizona is known as the "center line," commencing at Fort Bliss, running up the valley of the Rio Grande to La Mesilla, due west from La Mesilla, and passing down the Arayropa canyon to the Gila, and thence to the Pimas villages.

The valley of the Rio Grande, up which we run 60 miles, is a fine agricultural country, is well populated, produces large crops of cereals, fruits, and grapes, and grazes immense herds of cattle and sheep. This is the garden spot of New Mexico.

Passing west of the Rio Grande we encounter the high table-lands of New Mexico, lacking in water, but affording good grazing; the valleys are well adapted to agriculture.

The upper valley of the Gila, San Pedro, and the San Domingo are remarkably productive, easily irrigated, and well adapted to raising cotton and wheat.

Fine forests and pine timber are found in the Chi-ri-ca-hin range on Mt. Graham, and in the Calistro mountains.

This division passes near the mining districts north

and south of the Gila, and within easy reach of the great mines of Arizona.

California division extends from the Pimas villages to San Diego (distance 444 miles), follows the Gila river to Fort Yuma, cutting off the great bend of the Gila, by a direct natural route with easy grades and light work; thence by the adopted line from Fort Yuma, crosses the desert along the eastern base of the Sierra Nevada, through San Gorgonio Pass, across San Jacinto plains to Temecula, striking the ocean at the mouth of Rio San Luis; thence down the coast to San Diego.

It is possible that examinations may make it desirable to cross the Gila just below the great bend pass, to the north of that river, on a direct line to and crossing the Colorado river, about 30 miles north of Fort Yuma, connecting with the adopted line about lat. 33°.

That portion of this division watered by the Gila river is already partially settled, and the crops are only limited by the supply of water from the Gila river and mountain streams for the purpose of irrigation.

That portion of the Colorado river runs diagonally across the desert, keeping near the east base of the Sierra Nevada.

The New river portion will some day be brought under cultivation by the overflow from the Colorado, and that portion below the level of the sea can be irrigated from the Colorado.

The soil is excellent, a very small proportion being sand; grass grows on portions, and for three-fourths of the entire distance it only needs water to bring it under

cultivation. The west slope of the Sierra Nevada takes in the valley of the Rio Santa Ana, Rio Temescal, Rio Temecula, and Rio San Luis.

The amount of land suitable for cultivation is limited to the valley, but the table-lands, or mesas, are fair grazing districts, and support large herds of cattle and sheep.

State of Pennsylvania,
City and County of Philadelphia. ss.

Thomas A. Scott, of the said city and county, being duly sworn, deposes and says that he is the president of the Texas and Pacific Railway Company, and that the foregoing statement of the business of the said company for the year ending June 30, 1873, is true to the best of his knowledge and belief.

THOMAS A. SCOTT.

Sworn to before me this first day of July, A. D. 1873.

[Notarial Seal] HENRY C. SPACKMAN,
Notary Public.

[Endorsed]: Texas & Pacific. Department of the interior. Received 30 July, 1873. Dated 1 July, 1873. From Thos. A. Scott, Prest., 50 Exchange Place, N. York. Subject: Submits report of Texas & Pacific Railway Co., for the year ending 30th June, 1873. Action: 1 Augt., 1873. Respectfully referred to the (O.K.) Ack'd. Filed Chief Clerk. Registered 1—730.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No.

24. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 25.

J. I. P. (Vignette) A. M.

J. T. S.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Nov. 27, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original, with its endorsement, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal] WM. H. SIMS,

Acting Secretary of the Interior.

E. W.

Thos. A. Scott, Prest.

Frank S. B———, } Vice-Prests.
John C. Brown, }

Geo. D. Krumbhaar, Treasurer.

C. E. Satterlee, Secy.

Executive Office Texas and Pacific Railway Company,
275 South Fourth Street,
Philadelphia, Pa., Sept. 28, 1876.

Hon. Z. Chandler, Secretary of the Interior, Washington, D. C.

Sir: In obedience to section 13 of the charter of this company, dated March 3, 1871, I have the honor to submit herewith a report of the operations of the Texas and Pacific Ry. Company for the year ending June 30, 1876. I am,

Very respectfully yours,

THOMAS A. SCOTT,

Prest.

V. P.

ANNUAL REPORT

of the

TEXAS AND PACIFIC RAILWAY COMPANY

for the Year Ending

June 30, 1876,

to the

DEPARTMENT OF THE INTERIOR.

Washington, D. C.

Annual Report of the Texas and Pacific Railway Company for the Year Ending June 30, 1876.

The Texas and Pacific Railway Company was chartered by act of Congress March 3, 1871.

Capital stock authorized 50,000,000

Capital stock issued 6,073,000

Miles of road in operation:

From Shreveport to Eagle Ford, Texas 195½

From Marshall, Texas, to Texarkana 74½

From Sherman, Texas, to Paris 64

Total miles in operation, ... 334

Miles of road completed since last report, 8.

The company have 110½ miles of road under construction to be completed by the first of August 1876, as follows:

Between Paris and Texarkana .....87 miles

Between Eagle Ford and Fort Worth .23½ miles

A full description of the line of road surveyed and fixed upon for construction was given in the report made to the department of the interior July 1, 1874.

Statement of Receipts from all sources and how applied for the year ending June 30, 1876.

By receipts from:

Cash on hand July 1, 1875	12,411.66
Material on hand July 1, 1875	83,161.64
Accts. collectible July 1, 1875.....	64,284.72
Transportation receipts	1,595,156.10
Town lot sales	2,967.10
Loans	15,000.00

Coupons county bonds	13,711.20
First Mtge. $8,000 per mile bonds	1,428,000.00
Consolidated $17,000 per mile bonds	230,000.00
Material received from Con. Co.	195,732.32
Interest and exchange	988.83
	$3,641,413.57

To payments for:		
Transportation expenses		894,694.44
Construction accounts		153,854.84
Land department		47,447.86
Legal department		31,314.51
Bills payable		334,268.76
General expense account		127,007.86
Taxes and insurance		124,268.38
Interest and premium on gold		283,579.49
Discount on bonds		268,420.98
Sinking fund Texas loan		3,997.63
Accounts payable		374,415.00
Cash on hand June 30, '76	591,520.49	
Material on hand June 30, '76	314,846.56	
Accts. collectible June 30, '76	58,239.92	
Decrease in accts. payable	33,536.85	998,143.82
		$3,641,413.57

Indebtedness of the Texas and Pacific Railway Company, June 30, 1876.

First mortgage 6% gold construction bonds, limited to $8,000 per mile of road, dated May 15, 1875; payable March 1, 1905	1,428,000

Consolidated mtge. 6% gold construction bonds, dated June 1, 1875; payable June 1, 1905, $17,000 per mile	6,556,000
Income land grant 7% currency bonds, bonds, dated May 15, 1875; payable June 1, 1905; limited to an issue of $8,908,000	5,032,000
First mortgage 6% gold construction bonds, (old issue), $40,000 per mile. The amount of these bonds outstanding at date of last report was $10,093,000. Since which time there has been withdrawn by the substitution of the new construction bonds, $9,128,000. Leaving outstanding as collateral on obligations not yet matured, $965,000. As a resource to meet obligations that are a lien upon these 965 bonds, 400 of the new first mtge. bonds of the Co. have been placed in trust	400,000
Land grant bonds—old issue	2,922,000
(These bonds are in process of withdrawal by exchange for the new income and land grant bonds, $6,330,000 having been so retired during the past year, and $2,483,000 of the balance outstanding are under agreement to be returned and exchanged for new bonds.	
Unpaid coupons, land grant bonds	614,565

(All but 15% of this amount is under agreement to be funded in new income and land grant bonds at par.)	
Fractional scrips redeemable in bonds of the company on presentation	67,439
School fund loan State of Texas	196,888.27
Accrued interest on bonded debt	204,680
Floating indebtedness	705,855.54
($287,000 of this amount is for rails and fastenings purchased in May for road under construction.)	
	$18,127,427.81

Transportation receipts and expenses for the year ending June 30, 1876.

Receipts:	
From passengers	402,518.65
Freight	1,137,900.17
Express	12,592.99
Mail	30,794.74
Telegraph	8,491.11
Miscel.....	2,858.44
Total,	$1,595,156.10
Expenses:	
Conducting transportation	308,011.33
Motive power	231,015.18
Maintenance of way	219,085.65
Maintenance of cars	91,259.11
General Expenses	45,323.17
Total,	$894,694.44

Net earnings $700,461.66

Proportion of expenses to earnings 56%

The details of the earnings and expenses of the road are contained in the Fifth Annual Report of the Company filed herewith.

Equipment June 30, 1876.

Locomotives:

In running order	25
Used as stationary engines	2
Not in use—broad gauge	1
Total locomotives,	28

Cars:

Passenger, 1st class	7
Passsenger, 2d class	8
Passenger, directors,	1
Passenger baggage combination	3
Baggage, mail, and express	7
Box	202
Stock	82
Cabooses	19
Flat	209
Boarding	5
Wrecking	2
Pile driving	1
Total cars,	546

Names and residences of officers and directors of the Texas & Pacific Railway Co:

Officers.

President,	Thomas A. Scott,	Philadelphia.
Vice-president,	Frank S. Bond,	Philadelphia.
Vice-president,	John C. Brown,	Pulaski, Tenn.
Treasurer,	G. D. Krumbhaar,	Philadelphia.
Secretary,	C. E. Satterlee,	Philadelphia.
Gen'l. Supt.,	Geo. Noble,	Marshall, Texas.
Auditor,	T. D. Maurer,	Marshall, Texas.
Land Comr.,	W. H. Abrams,	Marshall, Texas.

Directors.

Thos. A. Scott,	Philadelphia.
Frank S. Bond,	Philadelphia.
Matthew Baird,	Philadelphia.
H. H. Houston,	Philadelphia.
R. D. Barclay,	Philadelphia.
W. S. McManus,	Reading, Pa.
John C. Brown,	Pulaski, Tenn.
Marshall O. Roberts,	New York.
Henry G. Stebbins,	New York.
A. G. Marquand,	New York.
Alfred Gaither,	Cincinnati, Ohio.
W. C. Hall,	Louisville, Ky.
T. S. Nesmith,	San Diego, Cal.
W. N. Harrison,	Jefferson, Texas.
W. T. Walters.	Baltimore, Md.

Names and residences of the stockholders of the Texas and Pacific Railway Co.:

Thomas A. Scott,	Philadelphia.
H. W. Gray,	New York.
W. T. Walters,	Baltimore.
J. S. Harris,	———
Albert Hewson,	Philadelphia.
H. C. Spackman,	Philadelphia.
H. J. Cossatt,	Philadelphia.
Joseph Lesley,	Philadelphia.
Matthew Baird,	Philadelphia.
H. H. Houston,	Philadelphia.
R. D. Barclay,	Philadelphia.
F. S. Bond,	Philadelphia.
F. S. Bond, in trust,	Philadelphia.
M. O. Roberts,	New York.
A. T. Marguand,	New York.
W. S. McManus,	Reading, Pa.
Alfred Gaither,	Cincinnati, Ohio.
W. C. Hall,	Louisville, Ky.
T. S. Nesmith,	San Diego, Cal.
W. N. Harrison,	Jefferson, Texas.
J. N. McCullough,	Pittsburg, Pa.
H. G. Stebbins,	New York.
R. D. Barclay, in trust,	Philadelphia.

M. Baird, J. McManus, T. S. Bond, W. T. Walters, A. Gaither,	Trustees,	Cal. & Texas Ry. Co., Philadelphia.

State of Pennsyvania,
City and County of Philadelphia. }

Be it remembered that on this twenty-seventh day of September, A. D. 1875, before me, the subscriber, a commissioner for the State of Pennsylvania, duly qualified, personally came Thomas A. Scott, president of the Texas and Pacific Railway Company, personally known to me, who being duly sworn, deposeth and saith that he is the president of said corporation; that he has read the foregoing report of the business of the Texas and Pacific Railway Company for the year ending June 30, 1876, and that the statements therein contained are true to the best of his knowledge and belief.

THOMAS A. SCOTT,
Pres.

Sworn and subscribed before me at Philadelphia aforesaid the day and year above written.

[Seal] HENRY C. SPACKMAN,
Notary Public.

[Endorsed]: Texas & Pac. R. W. Department of the interior. Lands and railroads. Received 28 Sept., 1876. Dated 28 Sept., 1876. From Thos. A. Scott, Pres. Tex. & Pac. R. W. Co., Philadelphia, Penn. Subject: Transmits annual report of Texas & Pacific R. W. Co., for year ending 30 June, '76. Action: 187—. Respectfully referred to the commissioner of the general landoffice. Ackd. & filed 28 Sept., 1876. Registered 2, —— 841. ————, Chief Clerk.

(587.) Ex. 25. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 25. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 26.

J. I. P. (Vignette) A. M.

J. T. S.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Nov. 27, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original, with its endorsement, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal] WM. H. SIMS,

Acting Secretary of the Interior.

E. W.

Thos. A. Scott, Pres.

Frank S. Bond, } Vice-Presets.
John C. Brown, }

Executive Office Texas & Pacific Railway Company, 275 South Fourth street.

Philadelphia, Pa., Oct. 1, 1877.

Hon. Carl Schurz, Secretary of the Interior, Washington, D. C.

Sir: In obedience to section 13 of the charter of this company, dated March 3, 1871, I have the honor to submit herewith a report of the operations of the Texas & Pacific Railway Company for the year ending June 30, 1877.

I am,

Very respectfully yours,

THOMAS A. SCOTT,

Pres. Tex. & Pacific Railway Company.

ANNUAL REPORT.

of the

TEXAS AND PACIFIC RAILWAY COMPANY,

to the

DEPARTMENT OF THE INTERIOR.

Washington, D. C.,

July 1, 1877.

Annual Report of the Texas & Pacific Railway Company for the Year Ending June 30, 1877.

The Texas & Pacific Railway Company was chartered by act of Congress, March 3, 1871.

Capital stock authorized	$50,000,000
Capital stock issued	7,483,400

Miles of road in operation:

	Main line.	Sidings.
Shreveport Division: From Shreveport to Marshall	39.96	6.36
Southern Division: From Marshall to Fort Worth	179.73	15.09
Jefferson Division: From Marshall to Texarkana Junction	69.05	4.60
Transcontinental Division: From Texarkana Junction to Sherman	155.12	10.89
Total	443.86	36.94

Since the date of the last report, June 30, 1876, this company has completed, fully equipped, and put in operation 111 miles of road, as follows:

From Paris to Texarkana	87
From Eagle Ford to Fort Worth	24
Total,	111 miles

Making the total number of miles of road operated as stated above, 444, with an equipment consisting of 50 locomotives and 1,050 cars.

A full description of the line surveyed between San Diego, Cal., and Marshall, Texas, has been filed in the department of the interior.

On the 14th of September, 1876, Mr. W. L. B. Jenney, of Chicago, was appointed by the President of the United States as commissioner for the examination of the Texas & Pacific Railway, recently completed, and under instructions from the honorable secretary of the interior made careful inspection of the road between Dallas and Fort Worth and Brookston and Texarkana Junction—in all 126 miles—reporting favorably on same to the department of the interior, under date of February 26, 1877.

In accordance with the recommendation of the report, the road inspected by Mr. Jenney was *formerly* accepted by the President of the United States on the 8th of March, 1877.

There is filed with this report a copy of the 6th annual report of the board of directors of the Texas & Pacific Ry. Co. to the stockholders, covering in detail the operations of the company for the fiscal year ending May 31, 1877.

Income Account Texas & Pacific Ry. Co. for the Year Ending June 30, 1877.

Credits:

By receipts from:	
Freight	1,468,694.63
Passengers	531,385.27
Express	20,323.37
Mail	31,035.
Telegraph	14,494.32
Miscellaneous	4,706.

Transportation Receipts for the Year Ending June 30, '77		$2,070,638.59
Debits:		
To payments for:		
Conducting Transn.	442,170	
Motive power	310,476.44	
Maintenance of way	444,105.96	
Maintenance of cars	135,484.79	
General expenses	49,749.37	
Working expenses for the year ending June 30, '77		$1,381,986.56
By net earnings to credit of income June 30, '77 ...		$ 688,652.03
Add: Receipts from other sources		1,498,379.38
Cash and supplies on hand June 30, '76		949,565.66
Balance—(Accts. payable) .		57,917.19
Total.....		$3,194,514.26
Against which there is charged for		
Legal expenses	5,111.84	
General expenses	45,922.66	
Insurance and Taxes	65,411.69	
Premium on gold	37,424.20	
Interest	558,742.42	
Construction	2,221,677.24	
Land Dept.	47,947.96	
Reduction of floating debt...	212,276.25	
Total		$3,194,514.26

Indebtedness of the Texas Pacific Railway Co., June 30, 1877:	
First mtge. 6% gold construction bonds limited to $8,000 per mile of road, dated May 15, 1875, payable March 1, 1905	3,130,000
Consolidated mtge. 6% gold construction bonds, dated June 1, 1875; payable June 1, 1905, $17,000 per mile	7,448,000
Income and land grant 7% currency bonds, dated March 15, 1875; payable June 1, 1905, limited to an issue of $8,908,000	5,534,000
First mtge. 6% gold construction bonds, $40,000 per mile—old issue	189,00
(These bonds are outstanding as collateral on obligations not yet matured. On payment of the obligations the bonds will be canceled.)	
Land grant bonds—old issue.....	1,561,000
(These bonds are in process of withdrawal by exchange for the new income and land grant bonds; $1,227,000 of the above are under agreement to be exchanged.)	
Unpaid coupons—land grant bonds.....	245,805
(All but 14% of this amount is under agreement to be funded in new land bonds at par.)	
Fractional bond scrip redeemable in bonds of the company on presentation	78,811.30

School fund loan State of Texas	192,970.20
Bills payable	285,044.68
Current accounts	600,053.81
Total,	$19,264,684.99

Equipment.

Locomotives:	
In running order	47
Used as stationary engines	2
Not in use—broad-gauge	1
Total locomotives,	50
Cars:	
Passenger, 1st class	14
Passenger, 2d class	14
Passenger, baggage combination	3
Passenger, directors	1
Box	494
Baggage, mail, and express.....	11
Stock	171
Caboose	28
Flat	305
Boarding	7
Wrecking	1
Pile driving	1
Total cars	1050

Names and residences of officers and directors of the Texas & Pacific Railway Company.

Officers.

President,	Thos. A. Scott,	Phila., Pa.
Vice-president,	Frank S. Bond,	Phila., Pa.
Vice-president,	John C. Brown,	Pulaski, Tenn.
Treasurer,	G. D. Krumbhaar,	Phila., Pa.
Asst. to Prest.,	Jas. P. Scott,	Phila., Pa.
Secretary.	Chas. E. Satterlee,	Phila., Pa.
Genl. Supt.,	Geo. Noble,	Marshall, Texas.
Auditor,	Thos. D. Maurer,	Marshall, Texas.
Land Comr.,	Wm. H. Abrams,	Marshall, Texas.

Directors.

Thos. A. Scott,	Phila., Pa.
Frank S. Bond,	Phila., Pa.
John C. Brown,	Pulaski, Tenn.
M. Baird,	Phila., Pa.
H. H. Houston,	Phila., Pa.
R. D. Barclay,	Phila., Pa.
M. O. Roberts,	New York City.
H. G. Stebbins,	New York City.
H. G. Marguand,	New York City.
W. T. Walters,	Baltimore, Md.
Alfred Gaither,	Cincinnati, Ohio.
W. C. Hall,	Louisville, Ky.
W. S. McManus,	Chester, Pa.
T. D. Nesmith,	San Diego, Cal.
W. H. Harrison,	Jefferson, Texas.

Names and residences of the stockholders of the Texas & Pacific Railway Company, July 1, 1877.

Thos. A. Scott,	Phila., Pa.
Mathew Baird,	Phila., Pa.
H. W. Gray,	New York City.
M. O. Roberts,	New York City.
H. G. Stebbins,	New York City.
W. T. Walters,	Baltimore, Md.
Cal. & Texas Railway Construction Co.,	Phila., Pa.
J. S. Harris,	Unknown.
W. C. Hall,	Louisville, Ky.
W. S. McManus,	Chester, Pa.
M. Baird, W. T. Walters, F. S. Bond. Alfred Gaither, John McManus,	Trustees.
H. H. Houston,	Phila., Pa.
R. D. Barclay,	Phila., Pa.
Frank S. Bond,	Phila., Pa.
H. G. Marguand,	New York City.
Alfred Gaither,	Cincinnati, Ohio.
T. D. Nesmith,	San Diego, Cal.
W. M. Harrison,	Jefferson, Texas.
Frank S. Bond, in trust,	Phila., Pa.
John C. Brown,	Pulaski, Tenn.

State of Pennsylvania,
City and County of Philadelphia. } ss.

Be it remembered that on this first day of October, A. D. 1877, before me, the subscriber, a notary public of the State of Pennsylvania, in and for the city and county of Philadelphia, duly qualified, personally came Thomas A. Scott, president of the Texas & Pacific Railway Company, personally known to me, who being duly sworn, deposeth and saith that he is president of said corporation; that he has read the foregoing report of the business of the Texas & Pacific Ry. Company for the year ending, June 30, 1877, and that the statements therein made are true to the best of his knowledge and belief.

THOMAS A. SCOTT,
Pres. Texas & Pacific Railway Co.

Sworn and subscribed before me at Philadelphia aforesaid, the day and year above written.

[Seal] JOHN E. SIMS, Jr.
Notary Public.

[Endorsed]: Texas & Pacific R. W. Department of the Interior. Lands and Railroads. Received 2d Oct., 1877. Dated 1 Oct., 1877. From Thos. A. Scott, Pres. Texas & Pac. R. W. Co., Philadelphia, Penn. Subject: Transmits annual report of Texas & Pacific R. W. Co. for the year ending 30th June, 1877. Action: , 187 . Respectfully referred to the commissioner of the general land-office. Ackd. 2d Oct., 1877. Registered 2-841. Chief Clerk. (587.)

(587.) Ex. 26. L. L. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 26. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 27.

"L." (4-207.) H. K.

Department of the Interior.

General Landoffice,

Washington, D. C., November 26th, 1895.

I, E. F. Best, acting commissioner of the general landoffice, do hereby certify that the annexed tracing of a portion of a map that accompanied the report of the Texas & Pacific Railroad Co., for the year ending June 30, 1877, is a true and literal exemplification of so much of the original on file in this office as is shown thereon.

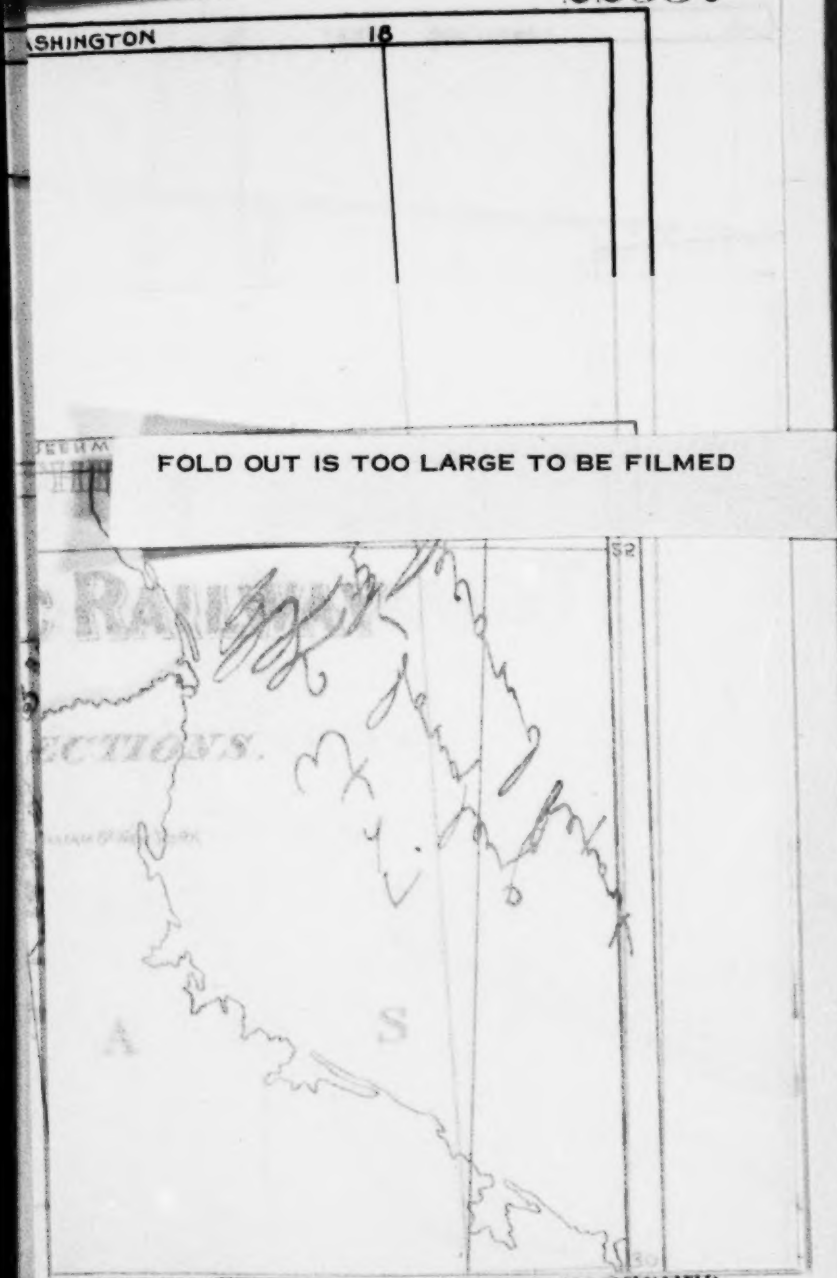
In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] E. F. BEST,

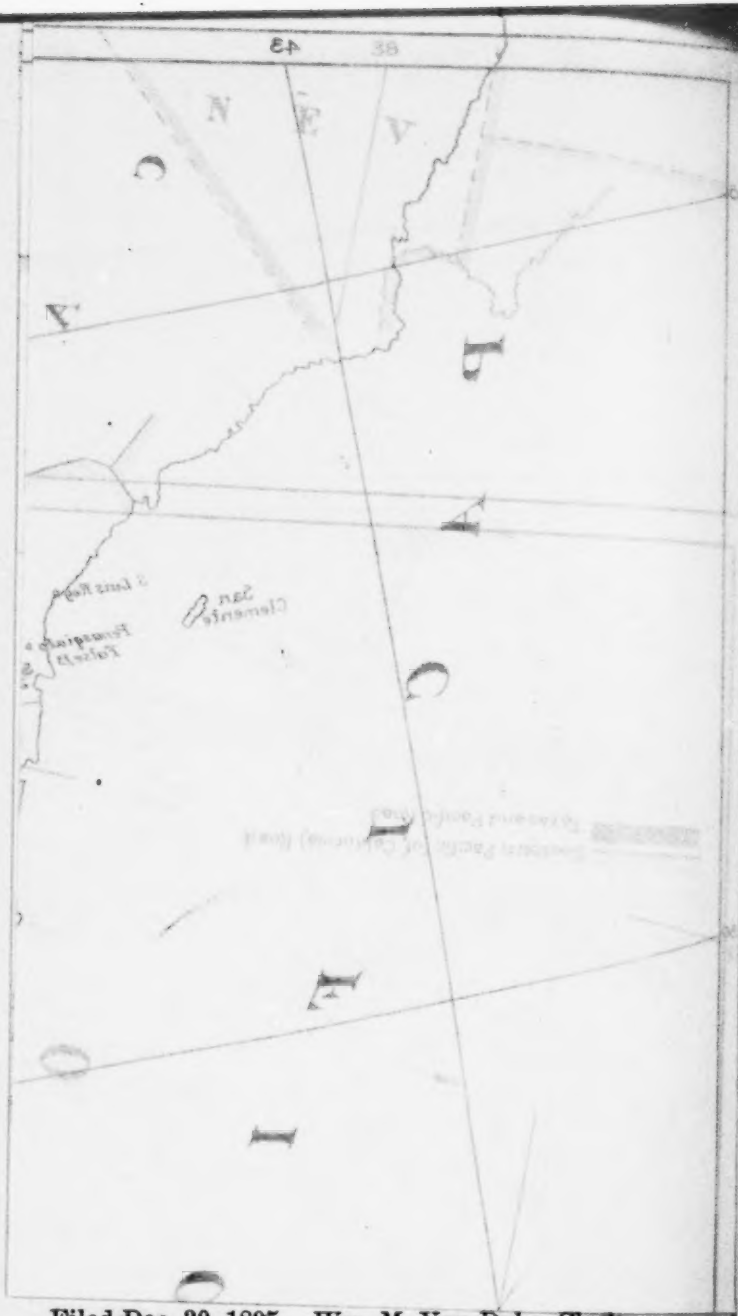
Acting Commissioner of the General Landoffice.

[Endorsed]: (587.) Ex. 27. L. L. T. & Pac. R. Gen. route mp. Rep. 77. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 27. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

22537



Atty. So. Pac. R. R. of Cala.



Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit "A1."

J. I. P. (Vignette.) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Nov. 26th, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original and of its endorsement on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal] WM. H. SIMS,

Acting Secretary of the Interior.

E. W.

Henry Beard, Attorney at Law, 927 F St., N. W.

Washington, D. C., Feby. 24, 1887.

Hon. L. Q. C. Lamar, Secretary of the Interior.

Sir: Having recently learned that a copy of the resolution of the board of directors of the Southern Pacific Railroad Company of California, accepting the grant by act of Congress of March 3, 1871, cannot now be found in the files of the department, I have been instructed by the general solicitor of the company to enclose the within copy of said resolution of acceptance adopted by said board on the 16th of May, 1871.

Very respectfully,

HENRY BEARD,

Atty. So. Pac. R. R. of Cala.

[Endorsement]: 1858. Department of the Interior. L. & R. R. Div. Received Feb. 25, 1887. Beard, Henry, City, Feb. 24, '87. Encloses copy of res. of board of directors of S. P. R. R. Co. of Cal. accepting provisions of act of Mch. 3, '71. Ackd. Feb. 25, '97. 1 Enc.

[Endorsed]: A1. L. L. ("A.") U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit No. A1. Leo Longley, Special Examiner. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. A1. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit "A2."

A. M.

(Vignette) P. M. S.

W. W. B.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., August 21, 1895.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of a certified copy of a resolution of the Southern Pacific Railroad Company, accepting the terms, conditions, and impositions of the act of Congress, approved March 3, 1871, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

E. W.

Resolution of the Southern Pacific Railroad Company accepting the terms, conditions, and impositions of an act of Congress of the United States, incorporating the Texas Pacific Railroad Company.

"Resolved, that this company will and does hereby accept the terms, conditions, and impositions of the act of Congress of the United States, entitled 'An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes,' approved March 3d, 1871, and that a copy of this resolution of acceptance, certified under the seal of this company, be forwarded to and filed with the secretary of the interior."

I, J. L. Willcutt, secretary of the Southern Pacific Railroad Company, hereby certify the foregoing to be a full, true, and correct copy of a resolution adopted by the board of directors of said company at a meeting of said board held on the 16th day of May, A. D. 1871.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of said company at the city of San Francisco, Cal., this 5th day of February, A. D. 1887.

[Seal] J. L. WILLCUTT,
Secretary Southern Pacific Railroad Co.

State of California,
City and County of San Francisco. } ss.

Personally appeared before me J. L. Willcutt, personally known to me to be the person who signed the within certificate, and who acknowledged that the signature of J. L. Willcutt, secretary, attached to the foregoing resolution and certificate thereof, was his genuine signature, and that he duly executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this 10th day of February, 1887.

[Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, California.

[Endorsed:] A2. L. L. "(b)" 1858. Department of the Interior. L. & R. R. Received Feb. 25, 1887.

U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 587. Defendants' Exhibit No. A2. Leo Longley, Special Examiner. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Defendants' Exhibit No. A2. Leo Longley, Special Examiner. Filed Dec. 30, 1895. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GERRITT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

No. 587.

Third Partial Report of Special Examiner.

To the Honorable, the Judges of the Circuit Court of the United States in and for said District:

Pursuant to an order of reference made and entered in the above-entitled cause as of the 23d day of January, 1895, whereby it is ordered that the undersigned, as special examiner in chancery, shall take the evidence in the above-entitled cause and report the same to the Court, the said special examiner does now submit this his third partial report, as follows:

That on the 28th day of January, 1896, at 10 o'clock A. M., the complainant appeared at the office of Walter J. Trask, Esquire, in the city of Los Angeles, California, by its solicitor, Joseph H. Call, Esquire, and the defendants by their counsel, Walter J. Trask, Esquire; and thereupon the complainant introduced in evidence exhibts numbered Plaintiff's Exhibits 28 and 29. And

thereupon the further hearing was adjourned to be resumed upon further notice.

And the said record, accompanying this report, contains all the evidence and exhibits introduced in said cause by the respective parties between the date of my second partial report herein and the date hereof; all of which, with the exhibits introduced, is herewith returned to the Court.

January 28, 1896.

LEO LONGLEY,
Special Examiner in Chancery.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiffs,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, GERRITT L. LANSING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
No. 587.

Testimony.

Testimony on behalf of plaintiffs, taken by consent, before Leo Longley, special examiner and stenographer, at

the office of Walter J. Trask, Esq., in the city of Los Angeles, California, this 28th day of January, 1896, at ten o'clock A. M.

Present:

Joseph H. Call, Esq., Special Examiner United States Attorney, for Plaintiff.

Walter J. Trask, Esq., of Counsel for Defendants.

Mr CALL.—I offer in evidence a certified copy of the annual report of the Texas & Pacific Railway Company for the year ending June 30, 1874, on file in the department of the interior and general landoffice, and request that the same be marked "Plaintiffs' Exhibit No. 28."

Mr. TRASK.—To which the defendants object, on the ground that the same is incompetent, irrelevant, and immaterial.

Mr CALL.—I offer in evidence a certified copy of the map filed by the Texas & Pacific Railway Company in the department of the interior and general landoffice, which accompanied the annual report of said company to the secretary of the interior for the year ending June 30, 1876, and request that it be marked "Plaintiffs' Exhibit No. 29."

Mr. TRASK.—To which the defendants object, on the ground that the same is incompetent, irrelevant, and immaterial.

Hearing adjourned to be resumed upon further notice.

[Endorsed]: 587. U. S. Circuit Court, Southern District of California. The United States of America vs. The Southern Pacific Railroad Company et al. Third partial report of Special Examiner. Filed Jan. 28, 1896. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 28.

A. M.
E. H. H.
(Vignette) M. C. McN.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Jan. 3, 1896.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed paper is a true copy of the original on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed the day and year first above written.

[Seal] HOKE SMITH,
Secretary of the Interior.

ANNUAL REPORT

of the

TEXAS & PACIFIC RAILWAY COMPANY

For the Year Ending

June 30, 1874.

[Stamped in red ink:] Department of the Interior. Nov. 10, 1874.

Texas Pacific Railway Company,
Office of the President,
Philadelphia, November 7, 1874.

Hon. C. Delano, Secretary of the Interior, Washington, D. C.

Sir: In compliance with the law governing railroad corporations chartered by the general government, I have the honor to submit herewith a report exhibiting the financial condition of the Texas and Pacific Railway Company on the 1st day of July, 1874, together with the operations of the road for the year ending on that date.

Very respectfully,
THOMAS A. SCOTT,
Pres.

Annual Report Texas & Pacific Railway Company, July 1st, 1874.

The Texas & Pacific Railway Company, chartered by act of Congress, March 3, 1871.

Capital stock authorized.....		$50,000,000.00
Capital stock issued:		
Scrip stock for partial payments on account of subscriptions...	600,000	
Full paid stock	1,000,000	$1,600,000.00

Miles of railroad in operation	320
Miles of road completed since date of last report	146.9-100
Miles of road graded, bridged, and tied ready for the iron	107

Amount of money received and expended by the Texas & Pacific Railway Company from July 1, 1873 to June 30, 1894:

Receipts:

From transportation of passenger and freight	847,423.77
From assessment on stock	395,800.00
From interest and exchange	943.64
From cash on hand July 1, 1873	2,287.54
	$1,246,454.95

Expenditures:

For expenses operating road	296,676.20
For accounts payable July 1, 1873	23,610.43
For construction account	276,329.73
For land department	69,605.80
For interest and exchange	17,626.54
For general expenses	105,109.47
For coupon interest	360,313.78
For cash on hand	97,183.00
	$1,246,454.95

Statement of the earnings of the Texas & Pacific Railway and the expenses of operating the same from July 1, 1873, to June 30, 1874.

Receipts:

From passengers	269,488.86
From freights	572,453.13
From express	6,906.00
From U. S. Mails	14,318.63
From telegraph	420.17
From miscellaneous	8,394.83
	$871,981.62

Expenses:

For conducting transportation	184,973.22
For motive power	172,133.51
For maintenance of way	239,794.07
For maintenance of cars	54,357.06
For general expenses	39,474.56
	$690,732.42
Current construction, improving road, widening gauge, ditching, grading, etc.	$336,319.58

Indebtedness of the Texas & Pacific Railway Company and the various kinds thereof on the first day of July, 1874:

Capital stock, script 30 per cent on $2,000,000	600,000.00
Capital stock, full paid	1,000,000.00

Bonded Debt.—The bonds of the company consist of two kinds, viz, first mortgage 6 per cent gold.

Construction bonds, dated June 1, 1872, mature June 1, 1912; principal and interest payable in New York or London, at option of holder. Denomination, $1,000; authorized issue, forty thousand dollars per mile of constructed and equipped road.

First mortgage land grant, 7 per cent Currency Bonds, dated July 1, 1872; mature July 1, 1912; principal and interest payable in New York. Denomination, $1,000.

Authorized issue 20,000,000.

Construction bonds, issued	9,210,000.00
Land grant bonds, issued	9,251,000.00
Floating debt	2,207,444.45
Debt of the Southern Pacific R. R. Co. to the State of Texas by the Texas & Pacific Ry. Co.	204,964.69
Total,	$22,473,409.14

Assets:

320 miles of constructed and equipped road; 107 miles of partly equipped road; 350 miles of telegraph line	20,708,986.63
Accounts collectible	73,481.77
Supplies on hand	138,990.78
Cash on hand	97,183.00
	21,018,642.18
To balance, profit and loss account	1,454,766.96
Total.	$22,473,409.14

Names and residences of officers and stockholders:

Officers.

President,	Thomas A. Scott,	Philadelphia.
Vice-president,	Wm. A. Wallace,	Clearfield, Pa.
Treasurer,	_____,	_____.
Secretary,	Emanuel B. Hart,	New York City.

Directors.

Thos. A. Scott,	Philadelphia.
William A. Wallace,	Clearfield, Pa.
J. W. Throckmorton,	McKinney, Texas.
A. J. Cassatt,	Philadelphia.
Albert Hewson,	Philadelphia.
Joseph Lesley,	Philadelphia.
H. C. Spackman,	Philadelphia.
Wm. S. McManus,	Reading, Pa.

Stockholders.

Thos. A. Scott,	Philadelphia.
Wm. A. Wallace,	Clearfield, Pa.
J. W. Throckmorton,	McKinney, Texas.
A. J. Cassatt,	Philadelphia.
Albert Hewson,	Philadelphia.
Joseph Lesley,	Philadelphia.
H. C. Spackman,	Philadelphia.
Wm. S. McManus,	Reading, Pa.
H. W. Gray,	New York City.
Edwards Pierrepont,	New York City.
W. T. Walters,	Baltimore, Md.
J. S. Harris,	Howard, Ill.
J. Edgart Thompson, Trustee,	Philadelphia.
Cal. & Texas Railway Construction Co.,	Philadelphia.

Description of the Lines of Road Surveyed and Fixed upon for Construction.

Adopted Line.

The Texas & Pacific Railway will extend from Shreveport, Louisiana, on Red River, to San Diego, California; with a branch from Marshall, Texas, to Texarkana, there connecting with the Cairo and Fulton Railway, and from Texarkana through Paris and Sherman, connecting with the main line at Fort Worth.

Over this route the surveys have determined that, in an engineering and commercial point of view, the line to be adopted is as follows:

Leaving Shreveport the road runs almost due west through Caddo Parish, Louisiana, and through the counties of Harrison, Gregg, Upshur, Wood, Smith, Van Zandt, Kaufman, Dallas and Tarrant, in Texas, passing through the towns of Marshall, Hallville, Longview, Willow Springs, Gladewater, Hawkins, Mineola, Grand Sabine, Wills Point, Elmo, Terrell, Forney, Mesquitte and Dallas to Fort Worth, at the junction of the west and Clear forks of Trinity river, in Tarrant county.

This line crosses the divide between Red river and Sabine river, and runs up the valley of the Sabine, crossing it in Van Zandt county, crossing the Trinity river at Dallas, following the west fork of the Trinity to Fort Worth; distance, 219 miles.

Fort Worth to San Diego.—Commencing at Fort Worth, the line follows the valley of the Clear Fork of Trinity to the mouth of South Fork, and up the valley of

South Fork to its head, passing through Weatherford, the county seat of Parker county, thence northerly crossing the head waters of numerous tributaries of the Brazos into Palo Pinto county. It then turns and crosses the Brazos river, near the mouth of Cedar creek, and follows up the valley of Veals creek, and crosses the divide into the valley of the Clear fork of the Brazos, and thence to the extremity of the big bend of the Clear fork, about 4 miles from Fort Griffin; thence following the valley of Trout creek and down one of the tributaries of Clear fork to a point near the line of Shackleford county; thence crossing California creek on the west line of the same county and following it to its head, and thence in a line on the divide between the waters of Clear and Double Mountain forks of the Brazos to a point south of the Double mountains.

From this point the line runs westerly, crossing the head waters of the north fork of the Colorado, and between Muchaqui, and Solitaire mountains, to Sulphur Springs, on the east border of the Staked Plains, a distance of 75 miles; thence southwest crossing the Staked Plains to the Pio Pecos, crossing this river above the mouth of Toyah creek, and below the mouth of the Delaware creek, one hundred and nineteen miles; thence in a direct line to the newly-discovered pass in the Guadaloupe mountains (known as Hurd's Pass). This pass is about 40 miles southeast of the Guadaloupe Pass; thence parallel to the Guadaloupe range to a point in Salt Lake Valley 25 miles southwest of Guadaloupe pass; thence west, crossing the Henca mountains through a low pass to Fort Bliss, on the Rio Grande.

From there the line follows the valley of the Rio Grande for a distance of 33 miles to near the town of Mesilla, then turning, ascends to the table-lands of the Sierra Madre, which is reached in a distance of six miles, and on the same course crossing the high rolling prairie of the Sierra Madre, it passes through the Florida Pass, between Fort Cummings and the Florida mountains, into the valley of the Mimbres, crossing that river south of Ojo de Vacca (Cow Springs), and south of Fort Bayard, Silver City, and the Lone Mountain mining district. We leave the Burro mountains on the north, the Pyramid range on the south, and passing near the Rallston Silver mines, we reach the valley of Playas one hundred and twenty-five miles west from the Rio Grande; after crossing this valley we pass the Pelincello on Stein's Peak range, through a low gap, south of Stein's Peak, and the old Boundary Commission road. The line then crosses the San Simon Valley to Railroad Pass, in the Chioccahin mountains; thence across the valley of the Playas de los Pinos, and across the Caletro mountains by way of Nugent's Pass, which is north of and about ten miles from Dragoon Pass; thence to the valley of the San Pedro, near the settlement of Tres Alamos; thence up the valley of the San Pedro, and thence to the Cunego Pass, between the Whetstone mountains and the Catacoma mountains, 20 miles north of Fort Buchanan summit, which is the highest point between the San Pedro and the Gila; thence down the valley of the Cuneja and Rilatto to near the town of Tucson; thence via the point of the mountains to near Desert Station; thence leaving

the valley and passing north of the Picacho mountains to near Picacho Station, from thence to the Gila, near Sacation, and about 60 miles below the mouth of the San Pedro, and down the valley of the Gila to the Pinos villages; thence to the junction of the Gila with the Colorado of the West at Fort Yuma, through St. Valentine Pass. From there the line passes to the north of sand-hills, and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this the line passes on the north margin of the Salt Lake of the Colorado desert, leaving the Mud Volcanoes about five miles to the south and the Dos Palmos Station about the same distance to the north, we reach the Cabazon valley, 113 miles from Fort Yuma; thence fifty miles to the summit of San Gorgonio Pass. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass our course is southwest to the head of Temecula canyon, down the canyon to the open valley, striking the coast about 40 miles north of San Diego; thence down the coast to the shore of San Diego bay, and along the shore of the bay to the depot grounds of the Texas & Pacific Railway—

Distance from the Pinos on the Gila river.. 444.4 miles
Fort Worth to San Diego.....1457.64 miles
Shreveport to San Diego.....1476.64 miles
Texarkana to San Diego.....1693.63 miles

In addition to the main line from Shreveport to San Diego, the Texas & Pacific Railway have the Jefferson Division, which leaves the main line at Marshall, and runs north through the counties of Harrison and Marion to Jefferson, and thence east of north through the counties of Cass and Bowie to the Transcontinental Division, at a point five miles west of Texarkana, passing through the towns of Woodlawn, Jefferson, Kildare, Atlanta, Lanark, and Moorse Landing. Length of Jefferson Division proper, 69 miles; distance from Marshall to Texarkana, 74 miles.

Transcontinental Division.—From Texarkana on the line between Arkansas and Texas, the line runs nearly due west through the counties of Bowie, Red river, Lamar, Fannin, and Grayson, to a point a few miles west of Sherman; thence a little south of west through the west part of Grayson, the southeast corner of Cooke, and through Denton and Tarrant counties, to Fort Worth, passing through the towns of Round Prairie, Bowie, De Kalb, Savannah, Clarksville, Blossom, Prairie, Paris, Brookston, Honey Grove, Dodd City, Bonham, Savoy, Shannon, Pilot Point and Denton. From Texarkana to Grove it follows the divide between Red river and Sulphur, then on the slope towards Red river to five miles west of Sherman; thence on the divide between the East Fork of Trinity and Trinity river, crossing Elm fork of Trinity river and Denton and Hickory creeks, tributaries of the Trinity, to Fort Worth; distance, 236 miles.

For the Texas & Pacific Railway Company:

THOMAS A. SCOTT,
President.

City of Philadelphia,
State of Pennsylvania.

Be it remembered that on this seventh day of November, A. D. 1874, before me, the subscriber, a notary public for the city of Philadelphia, personally appeared Thomas A. Scott, President of the Texas and Pacific Railway Company, who, being duly sworn, deposes and says that he is the president of said company, and that the facts set forth in the foregoing report are just and true to the best of his knowledge and belief.

THOMAS A. SCOTT,
Pres.

Sworn to and subscribed before me the day and year aforesaid.

Witness my hand and seal.

[Notarial Seal] HENRY C. SPACKMAN,
Notary Public.

[Endorsed]: Annual report to interior department T. & Pac. R. R. Co. for 1874. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. So. Pac. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 28. Leo Longley, Special Examiner. Filed Jan. 28, 1896. Wm. M. Van Dyke, Clerk.

Plaintiffs' Exhibit No. 29.

(4-207.) R. H. M.

Department of the Interior.

General Landoffice,

Washington, D. C., January 8, 1896.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed tracing is a copy of so much of a map of the Texas and Pacific Railway and its connections, filed with and accompanying the annual report of the Texas Pacific Railway Company, to the secretary of the interior for year ending June 30, 1876, as it purports to represent, and is a true and literal exemplification thereof.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of the General Landoffice.

[Endorsed]: U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. So. Pac. R. R. Co. et al. No. 587. Plaintiffs' Exhibit No. 29. Leo Longley, Special Examiner. Filed Jan. 28, 1896. Wm. M. Van Dyke, Clerk.

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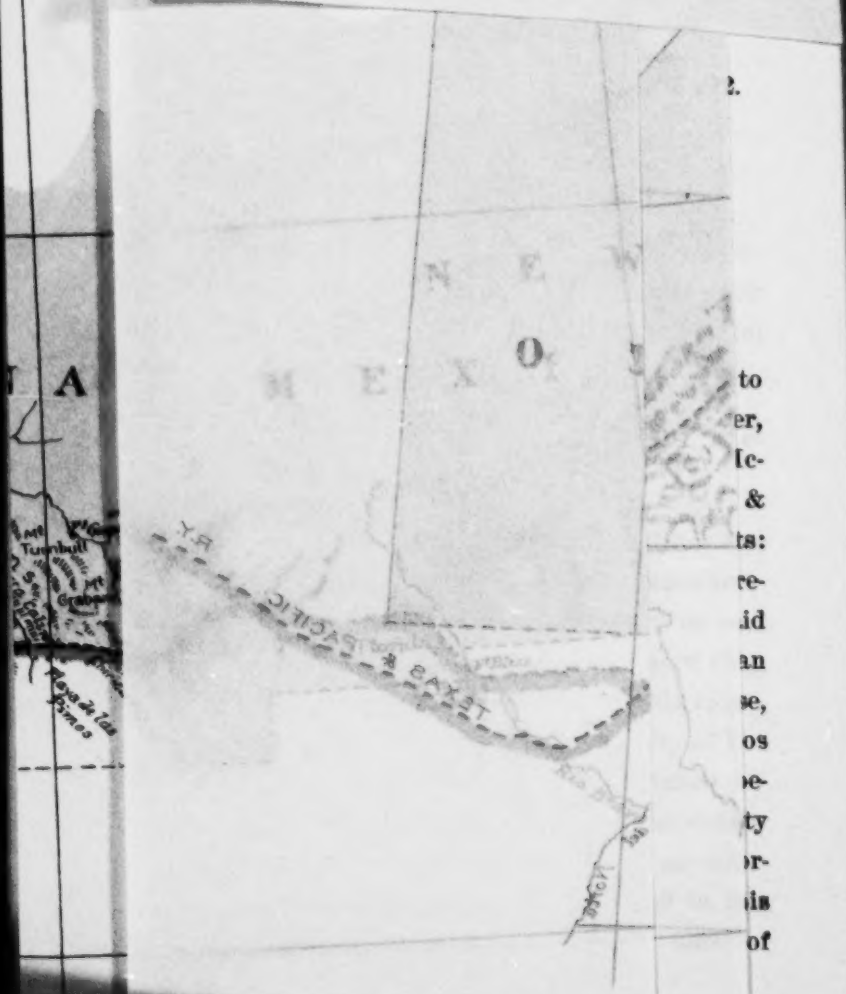


In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Consolidated Nos. 587, 675, 662.

Notice to Take Depositions.

To the defendants in the above-entitled cause and to Water J. Trask, Lewis E. Payson, William Singer, Jr., William F. Herrin, W. H. H. Hart, Page, McCutchen & Eells, and Butler, Notman, Joline & Mynderse, attorneys and counsel for said defendants:

You will please take notice that the complainants herein will take the testimony of Joseph Crawford in said cause, each and all of whom reside and live more than one hundred miles from the place of trial of this cause, to wit, more than one hundred miles from the city of Los Angeles, California. Said testimony will be taken before Leo Longley, a notary public in and for the county of Los Angeles, State of California, who is not an attorney or of counsel for either party, or interested in this cause. Said testimony will be taken at the office of

Joseph H. Call, No. 212 Third street, in the city of Los Angeles, California, on the 8th day of October, A. D. 1896, at the hour of 10 o'clock A. M., and the taking thereof will be continued from day to day, and may be adjourned from place to place as may be determined by said notary.

JOSEPH H. CALL,

Special Assistant United States Attorney and of Counsel for Complainants.

Received a copy hereof Sept. 29, 1896.

WALTER J. TRASK,

Attorney for Defendants.

[Endorsed]: Consolidated Nos. 587, 675, 662. In the United States Circuit Court, So. Dist. of Cal. United States vs. Southern Pacific Railroad Co. et al. Notice to take depositions. Joseph H. Call, Spl. U. S. Atty.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY and Others, Defendants.	Consolidated Nos. 587, 662, 675

Deposition of Joseph Crawford.

Taken on behalf of the complainant at the office of Joseph H. Call, Esq., No. 212 Third Street, in the city of

Los Angeles, California, on the 8th day of October, A. D. 1896, pursuant to the annexed notice and an original duplicate of said notice on file in the office of the clerk of the United States Circuit Court, Ninth Circuit, Southern District of California.

On the day aforesaid, being October 8th, A. D. 1896, at the office of said Joseph H. Call, Esq., at the hour of 10 o'clock in the forenoon, there was present Joseph H. Call, Esq., special assistant United States attorney, Joseph Crawford, and Franklin Jordan, Esq., attorney for said Joseph Crawford, and no others, and no appearance having been made by the defendants, or either of them, an adjournment of said hearing was had until the hour of 12:30 P. M. of the same day, the said 8th day of October, A. D. 1896; and said hour of 12:30 P. M. of said day having arrived, there was present at the place above mentioned said Joseph H. Call, Esq., special assistant United States attorney, Joseph Crawford, Franklin Jordan, Esq., attorney for said Crawford, and the undersigned, H. S. Rollins, a notary public in and for the county of Los Angeles, State of California, and no others, and no appearance was made by the defendants, or either of them, and thereupon the following proceedings were had:

JOSEPH CRAWFORD, being first duly and regularly sworn and cautioned, was examined, and in answer to the following interrogatories, testified as follows:

Examination by JOSEPH H. CALL, Esq., special assistant United States attorney.

Q. What is your name? A. Joseph Crawford.

Q. Where do you live?

A. At San Jacinto.

Q. What county? A. Riverside county.

Q. This State? A. State of California.

Q. How far do you live from the city of Los Angeles?

A. About one hundred and twenty miles.

Q. By the nearest direct and traveled road?

A. Yes, sir. You have to go across trails to get there.

Q. And if you went by the better roads it would be further than that?

A. Yes, sir; it would be one hundred and forty miles.

Q. Where were you born?

A. Utica, New York.

Q. State of New York? A. Yes, sir.

Q. Then you are a citizen of the United States?

A. Yes, sir.

Q. Did you ever serve in the United States army?

A. Yes, sir; three years and four months.

Q. In what year did you enlist?

A. Sixty-one—September.

Q. You were not discharged then until '65?

A. Sixty-four.

Q. In '64? A. Yes, sir.

Q. And you served regularly in the army for three years and four months?

A. Well, I wasn't in the front; I stayed four months in the State.

Q. What was the term of your enlistment?

A. I enlisted for three years, or during the war.

Q. And served for three years and four months?

A. Yes, sir.

Q. State whether you are acquainted with the northwest quarter of section 17, township 7 south, range 3 east, San Bernardino base and meridian.

A. Yes, sir; I built the cabin on that place.

Q. Just answer the question and I will come to that.

A. Yes, sir.

Q. How long have you known that land?

A. I have known it since '87, I think.

Q. Do you live there on that land? A. Yes, sir.

Q. Now, state when you went on that land to live, and under what circumstances.

A. I went onto it to live just as soon as I could erect the cabin after I filed on it.

Q. You filed on it? A. Yes, sir.

Q. When did you file on it?

A. I think it was in '87; in—I do not know whether it was July or August.

Q. Eighteen eighty-seven?

A. I think so. It might have been a little later than that.

Q. That land at that time was public land of the United States?

A. It was thrown upon the market by Bethune.

Q. As government land? A. Yes, sir.

Q. Did you go onto that land and did you apply to enter it before or after it was restored under the order of the secretary of the interior?

A. Before, I think.

Q. What date did you settle upon this land?

A. I think it was in July.

Q. What year? A. '87; 1887.

Q. And how long did you reside upon it?

A. I stayed on it two years and over; I cannot just say how much over.

Q. Continuously? A. Continuously.

Q. Did you improve the land?

A. I grubbed over one hundred acres on it.

Q. So that you had one hundred acres suitable for cultivation? A. Yes, sir.

Q. What buildings or other improvements did you erect on the land?

A. A cabin twelve feet square.

Q. And did you live in that during that time?

A. Yes, sir.

Q. Under what claim of right did you live on this land? A. Homestead.

Q. You claimed it as a homestead? A. Yes, sir.

Q. Do you know when the land was surveyed?

A. No, sir; I don't remember. I think Minto surveyed it.

Q. And when did you make your application at the United States landoffice at Los Angeles to enter this land as a homestead—the first application you ever made?

A. It was in '87.

Q. And it was within how many days after you moved on the land?

A. Well, it was—I don't know—it was pretty quick after I moved on the land.

Q. It was within thirty days? A. Yes, sir.

Q. Did you offer to pay the landoffice fees?

A. I paid the landoffice fees.

Q. You paid them at that time? A. Yes, sir.

Q. They didn't issue any receipt to you?

A. Yes, sir; but when I took the money back they tore the name off the receipt.

Q. Under what circumstances, and what did the officers at the landoffice say to you that induced you to take your money back? A. Mr. Bethune there—

Q. Register of the United States landoffice?

A. Yes, sir; and he said he didn't know the railroad company had selected this land when he advised that it was subject for homesteads, or something to that effect.

Q. And so he asked you to give up your receipt and take your money back?

A. Yes, sir; and by so doing I wouldn't lose my homestead right.

Q. Have you got that receipt with the name torn off?

A. I think I have.

Q. Produce it if you have it here.

A. I haven't got it here.

Q. What was the receipt? In regular form, signed by the receiver of the landoffice at Los Angeles, was it?

A. Yes, sir.

Q. And did he then tell you that that land was railroad land? A. No, sir—no sir; there was no—

Q. But he told you that you wouldn't lose your homestead right to that land if you returned the receipt and took your money?

A. Yes, sir; but this was over three months after. I had this receipt in my possession over three months before I knew the railroad had selected it.

Q. You mean before they applied to select it?

A. Before I was notified to come back to the landoffice and get my money.

Q. When did you next apply to enter this land as a homestead? A. In 1890—October 14th.

Q. Did you ever enter any other land as a homestead under the laws of the United States than this tract?

A. No, sir.

Q. The time that you actually lived upon this land, added to the time that you actually served in the army of the United States made more than five years?

A. Yes, sir.

Q. Well, when you applied to enter this land the second time, did you pay, or offer to pay, the fees?

A. I offered to pay the fees, but they wouldn't take them. In gold coin.

Q. The full amount of the fees that they were entitled to receive? A. Yes, sir.

Q. Do you remember now how much it was?

A. I tendered them a twenty dollar gold piece.

Q. And they refused it?

A. They refused it.

Q. What ground did they assign for their refusal?

A. They couldn't take it, is what they told me.

Q. Did they say anything about the Southern Pacific Railroad Company having claimed this land when you applied to enter it a second time?

A. I am not certain whether they did or not. Mr. Jordan was with me when I tendered it. He went with me as a witness.

Q. But anyway they refused to receive your money?

A. Yes, sir.

Q. Or issue the receipt? A. Yes, sir.

Q. What did you do then?

A. I put it in Mr. Jordan's hands and left it.

Q. Mr. Jordan—you mean Franklin Jordan, the lawyer? A. Yes, sir.

Q. To represent you in a contest?

A. In a contest. I was instructed to do so by Mr. Brunson—Judge Brunson.

Q. Then what did Mr. Jordan do for you?

A. Well, he kept it in court. I don't know. He informed me after a while to bring two witnesses and enter up proof of my residence.

Q. Upon the land? A. Yes, sir.

Q. And you did that? A. Yes, sir.

Q. At the Los Angeles landoffice? A. Yes, sir.

Q. To show that you had fully complied with the homestead law? A. Yes, sir.

Q. And were entitled to a patent?

A. I think so.

Q. What is your age? A. Sixty-four years.

Q. Are you a single man? A. Yes, sir.

Q. Always have been? A. Yes, sir.

Q. Do you claim any other home or residence than the land in controversy? A. No, sir.

Q. What is your occupation? A. Laborer.

Q. What is the value of the improvements and labor that you have put upon this place?

A. Between $250.00 and $300.00.

Q. Is the house that you built upon the land a good, comfortable structure at all seasons of the year?

A. Yes, sir; for me it is. It is boards standing on end, and battened.

Q. In case you secure title to this land, do you intend to occupy it as your home in good faith?

A. Yes, sir; certainly.

Q. What regiment did you serve in?

A. 12th Wisconsin.

Q. Infantry?

A. Infantry, under Geo. E. Bryan of Madison.

Q. And was honorably discharged?

A. Yes, sir.

Q. Where?

A. I was mustered out at Chattanooga.

Q. Have you your discharge?

A. Yes, sir; I have it at home.

I offer in evidence an authenticated copy of the order of the secretary of the interior, dated May 23rd, 1887, and request that the same be marked "Plaintiffs' Exhibit A1."

I offer in evidence an authenticated copy of the answer of the Southern Pacific Railroad Company to the order of the secretary of the interior, May 23rd, 1887, and request that the same be marked "Plaintiffs' Exhibit A2."

I offer in evidence a certified copy of the order of the secretary of the interior, August 15th, 1887, restoring to the public domain lands withdrawn for the indemnity

of parties within the thirty mile limit of the Southern Pacific Grant, and request that the same be marked "Plaintiffs' Exhibit A3."

I offer in evidence an authenticated copy of the protest of the Southern Pacific Railroad Company against the restoration of indemnity lands, dated November 16th, 1887, and request that the same be marked "Plaintiffs' Exhibit A4."

I offer in evidence a certified copy of the record of the hearing had before the register and receiver of the United States landoffice at Los Angeles, Cal., in the case of Joseph Crawford, and request that the same be marked "Plaintiffs' Exhibit A5."

I offer in evidence an exemplified copy of a letter of the commissioner of the general landoffice to the register and receiver at Los Angeles, Cal., dated June 8, 1891, and request that the same be marked "Plaintiffs' Exhibit A6."

I offer in evidence an authenticated copy of the decision of the register and receiver of the United States landoffice at Los Angeles, Cal., in the case of Joseph Crawford, and appeal of the Southern Pacific Railroad Company from said decision, and request that the same be marked "Plaintiffs' Exhibit A7."

I offer in evidence an authenticated copy of the decision of the commissioner of the general landoffice in the case of Joseph Crawford and the appeal of the Southern Pacific Railroad Company therefrom, and request that the same be marked "Plaintiffs' Exhibit A8."

I offer in evidence a certified copy of the decision of the secretary of the interior in the case of Joseph Crawford,

dated August 18, 1894, together with a copy of the demand made upon C. P. Huntington, Esq., president of the Southern Pacific Railroad Company, for a reconveyance to the United States of the northwest quarter of section 17, township 7 south, range 3 east, San Bernardino base and meridian, and request that the same be marked "Plaintiffs' Exhibit A9."

JOSEPH CRAWFORD.

State of California, }
County of Los Angeles. } ss.

I, H. S. Rollins, a notary public in and for the county of Los Angeles, State of California, do hereby certify that in pursuance of the notice hereinbefore described, and at the time and place above mentioned, I took the deposition of Joseph Crawford, a witness for the United States in the above-entitled action; that said witness was by me first cautioned and duly sworn to testify the whole truth, and the questions propounded to said witness and his answers thereto were reduced to writing by me and by no other person, and after having been first read over by said witness and corrected by him where necessary, said deposition was subscribed and sworn to before me by said Joseph Crawford on this 9th day of October, A. D. 1896.

I further certify that said witness, Joseph Crawford, lives in the county of Riverside, formerly San Diego county, California, a distance of more than one hundred miles from the city of Los Angeles, California, the place of trial of this cause.

I further certify that I am not of counsel or attorney for any or either of the parties to the above-entitled suit, nor interested in the event of the cause.

And I further certify that this deposition was retained by me in my own hands until sealed up and delivered to the clerk of the United States Circuit Court, Ninth Circuit, Southern District of California.

Witness my hand and official seal at the city of Los Angeles, California, this 9th day of October, A. D. 1896.

[Seal] H. S. ROLLINS,

Notary Public in and for Los Angeles County, California.

Plaintiffs' Exhibit "A1."

F.

H. W. H. (4-207.) M. W. J. M.

Department of the Interior.

General Landoffice,

Washington, D. C., Nov. 12, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed order and rule of the secretary of the interior of May 23, 1887, is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

S. W. LAMOREUX,

Commissioner of the General Landoffice.

[Endorsed]: Plaintiffs' Exhibit A1. To deposition of Joseph Crawford. Los Angeles, Cal., Oct. 8, 1896. H. S. Rollins, Notary Public.

United States Marshal's Office,
Northern District of California.

I hereby certify that I received the annexed order on the 3d day of June, 1887, and personally served the same on the 6th day of June, 1887, on the Southern Pacific Railroad Co. main line, by delivering to and leaving with Leland Stanford, president of the Southern Pacific Railroad main line, said defendant, named therein personally, at the city and county of San Francisco in said district a true certified copy thereof, together with certified copies of the affidavits therein mentioned, certified to by ———————— attached thereto.

San Francisco, June 6, 1887.

J. C. FRANKS,
U. S. Marshal.
By B. Donnelly,
Deputy.

Department of the Interior.

Washington, May 23, 1887.

It appearing from the records of this department that orders withdrawing lands from settlement under the public land laws within the indemnity limits of the following list of land grant railroads are still existing, and that these several roads have not informed this department to what extent they are entitled to lands within such indemnity limits by reason of those lost in place of their respective grants, and that ample time has been given them to assert their rights in this behalf, namely:

Name of Road and State or Territory.	Date of Withdrawal.
State of Alabama.	
Coosa and Tennessee	June 19, 1856
Selma, Rome and Dalton	June 19, 1856
Mobile and Girard	June 19, 1856
State of Arkansas.	
St. Louis, Iron Mountain and Southern..	
State of California.	
California and Oregon	Oct. 29, 1867 Sept. 6, 1871 Feb. 18, 1885
Southern Pacific, main line	May —, 1867
Branch Line	May 10, 1871
State of Florida.	
Florida Railway and Navigation.	Sept. 6, 1856
State of Michigan.	
Marquette, Houghton and Ontonagon...	Apr. 24, 1860
State of Mississippi.	
Gulf and Ship Island	Aug. 9, 1856
State of Missouri.	
St. Louis, Iron Mountain and Southern..	

Name of Road and State or Territory.	Date of Withdrawal.
State of Oregon.	
Northern Pacific	Aug. 13, 1870 Jan. 8, 1885
Oregon and California	Jan. 31, 1870 Apr. 7, 1870 July 12, 1870 Mar. 31, 1871 July 5, 1883 July 5, 1883 July 5, 1883 Sept. 3, 1883 Oct. 27, 1883 Oct. 27, 1883 Dec. 19, 1884
Oregon Central Wagon Road	May 5, 1871 June 25, 1879
Dalles Military Wagon Road	Dec. 14, 1871
Arizona Territory.	
Atlantic and Pacific	May 17, 1872
Idaho Territory.	
Northern Pacific	Apr. 15, 1872
Montana Territory.	
Northern Pacific	Sept. 29, 1883 Oct. 8, 1883 June 8, 1883 June 9, 1883 Nov. 10, 1883 June 8, 1883 June 9, 1883 July 3, 1883 Sept. 25, 1884 Feb. 20, 1885

Name of Road and State or Territory.	Date of Withdrawal.
New Mexico Territory.	
Atlantic and Pacific	May 8, 1872
Washington Territory.	
Northern Pacific	Jan. 21, 1874 Nov. 12, 1874 Nov. 13, 1880 June 9, 1884 Sept. 1, 1884 Jan. 6, 1885 Jan. 6, 1885 Nov. 28, 1884 Nov. 28, 1884

And it now appearing that no sufficient reason exists for longer continuing in force said several orders of withdrawal, or that a time certain should be fixed within which the rights of these several roads should be asserted, and that lands to which said railroad companies are not entitled in said indemnity limits should be restored to settlement, now, rule is hereby entered on said several railroad companies to show cause on or before the 28th day of June, 1887, why said several orders of withdrawal should not be revoked, or such other action taken as shall speedily restore such lands to the public domain for settlement.

Returnable before the secretary of the interior on the 28th day of June, 1887, at 10 o'clock A. M.

L. Q. C. LAMAR,
Secretary.

[Endorsed]: Department of the Interior. L. & R. R. Div. Received June 14, 1887. 1887. 92,681-8.

Plaintiffs' Exhibit "A2."

F. M. W. J. M.

H. W. H. (4-207.)

Department of the Interior.

General Landoffice,

Washington, D. C., Nov. 12, 1895.

I, S. W. Lamoreux, commissioner of the general land-office, do hereby certify that the annexed copy of the answer of the Southern Pacific Railroad Company to the order of the * * * secretary of the interior of May 23, 1887, is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

S. W. LAMOREUX,

Commissioner of the General Landoffice.

ANSWER

of the

Southern Pacific Railroad Company of California

to the

Order of the Secretary of the Interior of May 23, 1887.

Said order, addressed to this and sundry other railroad companies, is as follows:

Department of the Interior.

Washington, May 23, 1887.

It appearing from the records of this department that orders withdrawing lands from settlement under the pub-

lic land laws within the indemnity limits of the following list of land grant railroads are still existing, and that these several roads have not informed this department to what extent they are entitled to lands within such indemnity limits by reason of those lost in place of their respective grants, and that ample time has been given them to assert their rights in this behalf.

* * * * * * * * * * *

And it now appearing that no sufficient reason exists for longer continuing in force said several orders of withdrawal, or that a time certain should be fixed within which the rights of these several roads should be asserted, and that lands to which said railroad companies are not entitled in said indemnity limits should be restored to settlement, now, rule is hereby entered on said several railroad companies to show cause, on or before the 28th day of June, 1887, why said several orders of withdrawal should not be revoked or such other action taken as shall speedily restore such lands to the public domain for settlement.

Determinable before the secretary of the interior on the 28th day of June, 1887, at 10 o'clock A. M.

L. Q. C. LAMAR,
Secretary.

The most material requirement upon this company in the above is, to set forth the facts and reasons why the withdrawals of public land along its line, made to aid the final adjustment of its land grants, should not be revoked.

Passing by some of the statements in this order of 23d May, which we might except to or explain, we proceed to

make a summary of the facts and law of the case of said company, principally relating to its main line of road.

The suggestion of this order is that lands to which said company is not entitled in said indemnity limits should be restored, and the converse of this proposition may be assumed, that lands to which it is entitled should remain withdrawn.

We may be excused here for referring to the act of Congress approved March 3, 1887, public No. 162, pamphlet, p. 556, by which it is enacted "that the secretary of the interior be, and is hereby, authorized and directed to immediately adjust * * * each of the railroad land grants made by Congress to aid in the construction of railroads and heretofore unadjusted."

The grants to the Southern Pacific Railroad Company of California come within the language and intent of this enactment. The "adjustment" is made a present duty of the secretary, and we propose to show:

I.

That in order to properly perform this duty, the indemnity withdrawals for this company must be for the present maintained.

The fundamental proposition in the case is that the grant to the company is one of quantity within limits, both quantity and limits being fixed by the location of the line of road. The quantity in primary limits is the quantity of the grant, which has been only approximately ascertained.

Assuming, however, the computations of the general landoffice, as made to the department in annual and other

reports, which have been given to the public in executive documents, as a basis, it will appear that all the land within both limits, which is of the description granted, will be required to satisfy the just demands of the company.

The grant is in these words:

"There be, and is hereby, granted * * * every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile on each side of said railroad line, as said company may adopt, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated and free from pre-emption or other claims or rights at the time the line of said road is designated by a plat thereof filed in the office of the commissioner of the general landoffice, and whenever, prior to said time, any of said sections, or parts of sections, shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the secretary of the interior, in alternate sections and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections," etc.

This indemnity for losses within granted limits is unusually liberal, probably because of the denial of money subsidy along a route so difficult of construction. It gives lieu lands for the lands "granted prior to said time," as

well as for those of other descriptions, for which indemnity is usually given.

The provision for indemnity covered the losses already then known to exist, as well as those to be ascertained in future under the exemptions from the grant. It covered the known loss by conflict with the prior grant and withdrawal for the Central and Western Pacific roads—twenty-five miles off one end of our road—and the State swamp grant under the act of 28th September, 1850, and the supplemental law of 22d of July, 1866; the latter act, in the minds of the land committees at the time, resulting in this allowance of indemnity for swamp lands, confirmed to the State by a prior law of the same session of Congress.

It is also true that large quantities of land along the first fifty miles of the Southern Pacific main line and along the branch line north and south of Los Angeles, had been sold and located prior to the grant, and large areas were covered by Mexican grants, so that only a small percentage of the quantity of the grant could be found opposite the completed road in those localities.

That the grant is one of quantity per mile of road is made plain by the decision of the United States Supreme Court in the case of the Burlington and Missouri River Railroad vs. The United States (98th U. S. Reps., 334.)

It will be here noticed that immediately upon the filing of our map of main line the secretary of the interior, Mr. Browning, March 19, 1867, in his letter of that date to the commissioner of the general landoffice, construed this grant as one of odd sections within twenty miles of the road, and the ten additional miles as limiting the boundaries from which the indemnity lands must be taken.

Department of the Interior.

Washington, March 19th, 1867.

Sir: Under date of January 3d, 1867, a map showing the designated route of the Southern Pacific Railroad in California, filed under the act of Congress approved July 27th, 1866, was sent to you for appropriate action.

If the withdrawal of lands has not been ordered on account of said road, you will cause the necessary instructions to be issued to the local land officers to withdraw the odd sections within the granted twenty miles on each side of said road, as shown on the map before mentioned, and also withdraw the odd sections outside of the twenty miles and within thirty miles on each side from which the indemnity for lands disposed of within the granted limits is to be taken.

* * * * * * * * * * *

The withdrawal will be ordered to take effect upon the receipt of your instructions at the local office.

Very respectfully,

Your obedient servant,

O. H. BROWNING,

Secretary.

Hon. JOS. S. WILSON,

Commissioner of the General Landoffice.

The withdrawals were ordered by the commissioner according to these directions of the secretary, under date of March 22, 1867, addressed to the local officers at San Francisco, Visalia, and Stockton.

The construction thus given to the grant in 1867 has been maintained ever since.

It has also been decided directly by the action of the secretary, upon an official report of the commissioner of the general landoffice, that our grant is one of quantity per mile, with the limitations indicated.

See the report of the commissioner of the general landoffice to the secretary, May 21, 1880 (extract appended), sanctioned by the secretary by the approval of the list therewith submitted on the 19th of July, 1880.

See also Landoffice Report, p. 27, March, 1882 (House Ex. Doc. 144, 47th Congress, 1st session, p. 28.)

In the Annual Report of the General Landoffice for 1875, at p. 409, we find the "estimated quantity embraced in the limits of the grant" on the main line of our road to be 6,000,000 acres, and the "estimated quantity which the company will receive from the grant," to be 3,750,000 acres.

The grant to the branch line road within limits is estimated (same report and page) at 3,520,000 acres, of which the company will receive 3,000,000 acres.

In the case of Cedar Rapids Railroad Company vs. Herring et al. (110 U. S. Rep. p. 27), owing to a change in legislative enactments and a change in the route of the railroad, the question of quantity became material. The plaintiff in error claimed the right to quantity along the line of original location, 345 miles; the defendants in error urged that they were entitled only on the line constructed, 271 miles long. The Supreme Court of Iowa and the United States Supreme Court unheld the conten-

tion of the defendants, and in deciding the case (p. 35) the Court say:

"It is believed that in no instance of the many grants of public lands made by Congress to aid in building railroads has the quantity been measured by any other rule than the length of the road constructed, or required to be constructed, by the grantee or its privy, and it would be the first departure from this principal known to us, if in this case Congress intended to give the same amount per mile of land for road not constructed."

If we apply this principle to the case of the Southern Pacific Railroad Company, it appears that for its grant of land per mile of road actually constructed it will be entitled to quantities as follows:

On main line, completed road, 474.42 miles. Twenty sections per mile, or 12,800 acres, amounts to 6,072,576 acres of land.

Branch line, completed, 346.96 miles of road; acquired 12,800 acres per mile, or 4,441,088 acres of land.

It is conceded by the general landoffice that the company cannot obtain more than 3,250,000 acres on its main line, and not more than 3,000,000 acres on the branch line; but we know these estimates are in excess of the true quantity liable to be taken under the grant, including, as they do, the indemnity lands. (See note at end.)

The grants were made subsequent to extensive public disposals of lands in the regions through which the roads extend.

Much land is excluded from grant and from selection, by private land claims; much by the certifications to the

State under the swamp, internal improvement, and school indemnity grants; much by reservations, sales, locations, pre-emptions, and homesteads; much by the exclusion of the mineral lands (for which, however, agricultural lands as indemnity are allowed). Indemnity is given for all these classes of lands excluded from grant, in primary limits, but lands of the same description are likewise excluded from selection outside the grant. They reduce the quantity of land liable to selection as indemnity, by a large percentage, probably one-half of the entire indemnity belt.

These figures show that the quantity of the grants is limited, not by the number of sections per mile of road, but by the lesser quantity of lands liable to the grant, to be found within the lateral limits of the road.

To the present time the company has obtained title for only 1,040,430 acres on its main line, and 187,719 acres on its branch line.

It is thus shown that there are not any lands now withdrawn for the Southern Pacific Railroad Company of California in excess of the quantity to which the company is entitled under its grants; therefore, no restoration can now be made.

II.

The indemnity lands cannot be restored to market, because:

It is the intention of the laws of the grant that the Southern Pacific Company of California, at least for its main line, should receive all the granted lands earned by building the road. There is not left to the secretary of

the interior a discretion to restore them so long as the quantity granted has not been patented to the company.

The grant is not a mere gift.

Section 18 of the act of July 27, 1866 (14 Stat. 292), is as follows:

"That the Southern Pacific Railroad, a company incorporated under the laws of the State of California, is hereby authorized to connect with the said Atlantic and Pacific Railroad, formed under this act, at such point near the boundary line of the State of California as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road, and, in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations as to time and manner with the Atlantic and Pacific Railroad herein provided for."

This grant, as expressed in section 18, was made for a consideration, and not as a gift. "In consideration thereof"—that is, in consideration of the expenditure of labor and capital in building a certain connecting road of a prescribed width of gauge by one party for the benefit of the other. The labor and expenditure are by the company, and the Government secures (section 3) "the safe and speedy transportation of the mails, troops, munitions of war, and public stores" over the road at reasonable rates, uniform with those of the Atlantic and Pacific Railroad. But the consideration would be good and ample if the company was to expend, and did expend, its money, whether the Government had any benefit or not.

The company was required to accept the terms of the law and assume the undertakings therein enumerated for its performance, and this it did in due time.

"The act itself speaks the will of Congress, and this is to be ascertained from the language used. The rights of the parties rest upon a statute of the United States. Its words, as well as its reason, spirit, and intention, leave, in our opinion, no room for doubt as to its true meaning." (U. S. vs. Union Pac. R. R. Co., 91 U. S., at p. 72.)

"The purpose of Congress, above all others, was to obtain the construction of the railroad. * * * For that the grants of land were made. * * * Every other consideration was subordinate to that. And we are to give such construction to the language, if possible, as will carry out the congressional intentions." (Platt vs. Union Pac. R. R. Co., 99 U. S., at p. 60.)

This is a fair statement of the principles of interpretation applicable, and the object of Congress expressed in making our grant.

Various provisions in the law place the Government and the company in the attitude of parties to a contract, from which both are to derive benefits—on an equal footing—and each to perform the prescribed obligations to the other in good faith.

In harmony with the avowed purpose of aiding the building of the road, Congress dedicated the granted lands, and by section 6 further provided:

"That the President of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road after the general route

shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale or entry, or pre-emption, before or after they are surveyed, except by said company, as provided in this act, but the provisions of the act of September, 1841, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled 'An act to secure homesteads to actual settlers on the public domain,' approved May 20, 1862, shall be, and the same are hereby, extended to all other lands on the line of said road when surveyed, excepting those hereby granted to said company."

This section of the law, it has been settled, by decisions of the department and the United States Supreme Court, protects the granted lands against adverse appropriation.

In intention and spirit, if not in letter, it also applies to the indemnity lands. Both granted and indemnity limits are determined by the definite location of the road.

If this sixth section applies only to the granted limits, it is surplusage, for the right to the tracts in granted limits vests by the location under provisions of section 3d, without section 6.

The words in section 6, "The odd sections hereby granted," comprehend the odd-numbered indemnity sections. They are granted to the extent and amount of the land earned as fully as are those within twenty miles. Though an absolute right to particular tracts does not vest prior to the selection of them, the right so to select within ascertained limits is given by the statute.

Secretary Browning, when giving the order for withdrawal hereinbefore quoted, practically decided that the withdrawal to thirty miles was requisite and required by the terms of the grant.

Secretary Browning, and also Secretary Cox afterward, proposed to set aside the entire withdrawal on the ground that the road was not located upon the line required by its charter; but, on consideration of all the facts, Congress interposed and confirmed the location (Joint Res. of 28th June, 1870, 16 Stat. 382), and directed the secretary of the interior "to cause patents to be issued to said company for the sections of land coterminous to each constructed section (of road) reported on as aforesaid to the extent and amount granted to said company by the said act of July 27, 1866."

The "extent" relates to limits, the "amount" to quantity, and the company is to have the quantity if found within the exterior limits.

To restore any lands, therefore, whilst this duty of the secretary remains unperformed would do violence to the provisions of this law, which, in effect, said that no lands then withdrawn should be restored; the restoration which Secretary Cox had ordered (though temporarily suspended by him) should not be made so long as the lands opposite constructed roads remained unpatented.

On the 26th July, 1870, Secretary Cox advised the general landoffice that Congress had overruled his proposition to set aside the withdrawals for the Southern Pacific R. R. Co. of California. His letter is as follows:

Department of the Interior.

Washington, D. C., July 26, 1870.

Sir: Referring to my letter of the 15th of December last, directing you to suspend, until further advised by this department, all action under my decision of November 2d and 11th, 1869, ordering the restoration of lands withdrawn on account of the Southern Pacific Railroad Company of California, I have now to inform you that by a joint resolution of Congress, approved June 28th, 1870, the said company are authorized to construct their road and telegraph line, as near as may be, on the route indicated by the map filed in this department January 3, 1867, and will, upon constructing their road and telegraph line on that route, in compliance with the provisions of the act of July 27, 1866, be entitled to patents for the granted lands.

You will advise the proper local officers of this legislation that the reservation of 1867, on account of the company, may be respected.

Very respectfully,

Your obedient servant,

J. D. COX,

Secretary.

Hon. J. S. WILSON,

Commissioner of the General Landoffice.

The meaning of this is, that the withdrawals are to stand until the patents for lands earned by construction of the road have been issued "to the extent and amount" granted.

In our view, the question whether lands withdrawn for indemnity to the Southern Pacific R. R. Co. can be restored is here decided by Secretary Cox's interpretation of a statute—itself plain in its provisions—and the decision is, that the law prohibits restoration, so long as land is due for road constructed and reported on, as provided in the grant.

III.

The grant has not been adjusted so far as the road has been completed, and the principal reason for this is that the department has for six years refused to proceed with the work.

The company has made constant efforts ever since the construction and acceptance of its first sections of road to obtain patents for its granted lands, and the responsibility of delay in adjusting the grants rests with the land department, not with the company.

The act of Congress of July 1, 1864 (10 Stat. 355), required railroad companies to make selections of granted lands at the local landoffices, and to pay to the officers fees therefor. To carry the same into effect, regulations were established in January, 1867 (2nd Lester's Land Laws, p. 362), which were reissued in 1879 (Copp's Land Owner, vol. 6, p. 141).

The later regulations refer to an act of Congress of July 31, 1876 (19 Stat., 121), which requires railroad companies ("unless exempted by law from the payment of such costs") to pay the costs of surveying, selecting, and conveying lands before receiving patents therefor.

This company has paid those costs (costs for surveying paid under protest) on large quantities of land duly se-

lected according to law and the regulations, and the lists are on file in the general landoffice, the commissioner having delayed or declined patenting the same.

The aggregate of lands (June, 1887), on pending lists of selections for the main line of the road, is 511,115.42 acres; of money paid for surveys, $23,358.32; of fees of officers paid, $6,408.50; as follows:

In Granted Limits.

Acres, 315,606.71.

Amount of register's and receiver's fees paid, $3,953.50.

Amount of surveying fees paid, $14,556.82.

In Indemnity Limits.

Acres, 195,508.71.

Amount of register's and receiver's fees paid, $2,455.

Amount of surveying fees paid, $8,801.50.

In addition to these, there are lists of selections along the branch line road now pending, amounting to 232,147.85 acres.

Since the advent of the present executive administration, as attorney for the company, I have repeatedly called attention to the applications for patents pending, and requested action thereon.

May 18, 1885.—The undersigned addressed the commissioner asking patents for about 150,000 acres of selections opposite sections of road accepted by Presidents Grant and Hayes; and

October 4, 1886.—Filed a request for patents on five lists of granted lands, opposite sections of road accepted

by the President from October 1, 1872, to February 13, 1878, inclusive.

In addition to these general requests, San Francisco list No. 4, of 43,937 acres, selected July 15, 1882, of lands lying opposite road accepted in 1871 was the subject of the following communications to the general landofficee and the secretary of the interior:

October 26, 1883.—To the commissioner.

May 11, 1885.—To the commissioner.

November 21, 1885.—To the commissioner (appeal.)

December 15, 1885.—To the secretary of the interior.

March 8, 1887.—To the commissioner.

April 14, 1887.—To the secretary.

All these demands have not achieved success. In fact, the general landoffice has practically refused to execute the law of grant on the main line of the road, and applications to the secretary in the case of San Francisco list No. 4 (a test case) have so far been barren of results.

As viewed by the undersigned, the company, in asking for a patent on said list, has been demanding a legal right which the department is by law bound to concede, and not asking a concession that the secretary has a discretion to grant or refuse.

The lands hereinabove mentioned all lie opposite portions of road completed within the time prescribed in the law of grant.

As above shown, the company has invested $29,776.82 in fees and costs on lists which the Government refuses patents, and in our opinion the implication of the act of July 31, 1876, which provides that "before any lands

granted to any railroad company by the United States shall be conveyed to said company * * * there shall first be paid into the treasury of the United States for cost of surveying, selecting, and conveying said lands by the said company," is, that upon making such payments the patents shall issue.

The company is very greatly injured by the refusal to patent such lands, and is unable to perceive that there is any moral or legal obligation resting upon it to go forward and pay more money in the face of the refusal of the land department to patent the granted lands already paid for.

On the other hand, the duty of the secretary to cause such lands to be patented appears upon the face of the existing statutes applicable to the subject, viz., section 4, act July 27, 1866, 14 Stat. 292: "Patents of lands as aforesaid shall be issued to said company, confirming to said company the right and title to said lands situated opposite to and coterminous with said completed section of said road."

Joint resolution of 28th June, 1870, 16 Stat. 382: "It shall be the duty of the secretary of the interior to cause patents to be issued to said company for the sections of land coterminous to each constructed section reported on as aforesaid to the extent and amount granted to said company by the said act of July 27, 1866," etc.

This duty is not discharged until patents have issued to the extent and amount of lands acquired by the company under its grant; and when it appears that the said "extent and amount" will require every odd-numbered

tract liable to selection that has been withdrawn from market, it is plain that the department cannot, consistently with law and morals, restore any of the withdrawn lands for the purpose of otherwise disposing of them for account of the United States treasury.

Though the duty of the department to adjust the grant and patent the lands is declared by law, recent instructions to the surveyor general of California from the general landoffice have practically stopped all surveys, and made it impossible for the company to select some of the valuable tracts within its grant which have never been surveyed.

It may be proper here to state, by way of explanation, that this company has not been derelict in stating to the department its claims.

On the 30th April, 1880, the undersigned filed a written argument in the general landoffice in support of the then pending demand for patents upon two lists of indemnity lands. The paper was submitted by the commissioner to the secretary, with a report upon the subject, dated May 21, 1880. In that paper I claimed 2,768,576 acres as earned on account of 231.92 miles of road then completed, and at that time only 950,877 acres had been patented.

In a printed brief filed by me in the department of the interior in December, 1885, the quantity of the grant for the main line road of 474½ miles completed was stated at 4,500,000 acres, of which only 1,040,430 acres had been patented.

It is therefore respectfully submitted that the com-

pany's claims have been heretofore made known to the department, and I may add that heretofore, as well as at the present time, the company has been and is ready to facilitate the settlement of its land grant, as fully and speedily as possible.

When the land department, as above shown, has not, in a period of sixteen years, administered the grant to one-third of the lands to which the company has become entitled to patents, and while it does nothing in that direction, and expresses no hope of doing anything soon, the company would have a right to complain of unfair dealing if its granted lands are not withheld from market until the department can fulfill its duties under the law. So far as indemnity selections are involved, the company under the law has an equal right to select anywhere within the prescribed limits until the grant is satisfied—the only limitation stated in the law being "not more than ten miles beyond the limits of said alternate sections," referring thus to the "ten alternate sections of land per mile on each side of said railroad"—that is, the indemnity may be selected anywhere within the 30 miles limits.

The same reasons which induced the order of Secretary Browning in withdrawing the imdemnity lands in 1867, and that of Secretary Cox of 29th July, 1870, confirming such withdrawal, are to-day applicable with the same, if not greater, force. The circumstances of the case are not materially changed—the company still has a grant by Congress, which has been but partially administered—and the United States is still in default for nonful-

fillment of the provision of section six, which enacts "that the President of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of road," etc.

The Government has not surveyed all the lands within the limits of 30 miles which lies opposite to our completed road, and the orders of the general landoffice have put a stop to the surveying of mountain and timber land, which, along some portions of the road, are the most valuable to the company of any lands within its limits.

A withdrawal on a line not authorized by law, or on a line of a proposed grant which was never made by Congress, may unquestionably be revoked; but, as stated in the recent exhaustive decision of the secretary in the case of the Pueblo of San Francisco, "a secretary has no power or authority to revise or reverse the final decree of his predecessor in a matter properly before him." (5 Dec. 492.)

The question of the nature of the grant and extent of the withdrawal were properly before Secretary Browning, upon direct application of the company to him, when he made the order. The question of revocation on the allegation that the withdrawal was not along the proper line of route was raised, had been argued, and was pending before Secretary Cox when Congress intervened, and, in obedience to Congress, Secretary Cox confirmed the withdrawal as ordered by his predecessor.

Since then there has been no essential change in the facts and none in the law, and there is no case before the secretary that gives him proper jurisdiction to set

aside what his predecessors have done in this matter.

The moral duty of the Government to maintain the indemnity withdrawal to its exterior limits is confidently claimed.

Respectfully submitted,

HENRY BEARD,

Atty. for So. Pac. R. R. Co. of California.

Note to Page 7.—The exact quantity of land in the granted limits for which indemnity is given has not been ascertained, and can only be obtained by an examination of the plats and tractbooks of the general landoffice. It would aid that work . nd would be actually necessary to its completion to first patent the lands to the company within primary limits that are conceded to belong to it.

Probably before the day limited (28th June) we shall be able to submit an estimate, somewhat in detail, made from an actual examination of the plats and records, that will approximate accuracy, showing the quantity of the grant and the quantity of lands within the limits thereof excepted therefrom.

APPENDIX.

Extract from Commissioner's Report Hereinbefore Referred to.

Department of the Interior.

General Landoffice,

Washington, May 21, 1880.

Hon. C. Schurz, Secretary of the Interior.

Sir: I have the honor to submit herewith for your approval or other action list No. 11 of lands in the

Visalia district, California, which were selected by the Southern Pacific Railroad Company as indemnity for lands lost to the grant. The grant was made by the act of July 27, 1866 (14 Stat. 292). The joint resolution of June 28, 1870 (16 Stat. 382), authorized the company to construct its road on the route indicated by a map filed in this office January 3, 1867.

Opposite the tracts selected from lands in the indemnity limits are designated the tracts within 20-mile limits for which the indemnity is claimed. The selected lands are all within the 30-mile limits and the lost lands in the 20-mile limits, as established upon the definite location of the line of road by construction thereof.

* * * * * * * * * * *

"I am in receipt of a communication, under date of the 30th ultimo, from Henry Beard, Esq., attorney for the Southern Pacific Railroad Company of California, claiming on behalf of that company the right to have approved to said company two lists heretofore presented to this office of lands selected by said company in lieu of lands granted, sold, etc., by the United States within the grant limits of said road prior to the date of the grant, one of which lists is made the subject of the present reference."

* * * * * * * * * * *

In the Southern Pacific case the time from whence the loss is to be determined is "prior to" the filing of the map of location. In the California and Oregon case it is "when" the original alternate sections "shall be found to have been granted, sold," etc. These phrases have the

same antecedent meaning. The words "prior to" go back just as far as the words "shall be found to have been," etc. If there is any difference, it must be in favor of the former expression.

I am of the opinion that the granting acts in the two case are precisely similar in character and extent, and in the nature and means of indemnity provided, and that both are grants of quantity, limited only by the condition that the quantity granted shall be found within a certain distance from the line of the road, and that therefore the case of the Southern Pacific road comes specifically within the rule to the California and Oregon decision heretofore referred to.

At the same time such is the importance of the case, from the magnitude of the interests, public and private, involved in the adjustment of the several grants that may be held to be covered by the California and Oregon decision, that I feel it my duty to submit to you my conclusions upon the points considered for your formal determination and instructions thereon, and I recommend the approval of the accompanying list of selections made by the Southern Pacific Railroad Company, if my views of the application to the grant to that company of the decision in the California and Oregon case be deemed correct.

Very respectfully,

Your obedient servant,

J. A. WILLIAMSON,

Commissioner.

[Endorsed]: 5749. Department of the Interior. L. & R. R. Div. Received Jun. 21, 1887. 1887. 92,681-7. A2. Plaintiffs' Exhibit A2. To deposition of Joseph Crawford, Los Angeles, Cal., Oct. 8, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A3."

F. M. W. J. M.

H. W. H. (4-207.)

Department of the Interior.

General Landoffice,

Washington, D. C., Nov. 12, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed copy of the order of the secretary of the interior of August 15, 1887, is a true and literal exemplification of the original order on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

S. W. LAMOREUX,

Commissioner of the General Landoffice.

Compd.
A. M. S.
C. M. B. (Copy.) V. B.

Department of the Interior.

Washington, August 15, 1887.

Southern Pacific Railroad Company.

Indemnity Withdrawal.

The Commissioner of the General Landoffice.

Sir: The answer of the Southern Pacific Railroad Company to the rule of May 23, 1887, to show cause why lands withdrawn for indemnity purposes, under its grant, should not be restored to the public domain, sets up several matters in opposition to said rule.

The said company received its land grant under the act of July 27, 1866 (14 Stat. 292), the same statute which conferred a similar grant upon the Atlantic and Pacific Railroad Company, and subject to the same terms and limitations. My views expressed in relation to the indemnity withdrawals of latter company fully answer the matters set up by the Southern Pacific Railroad Company in that respect.

I have therefore to direct that as to all lands withdrawn and now held for indemnity purposes under the grant to the Southern Pacific Railroad Company, along its main and branch lines, be restored to the public domain and opened to settlement under the general land laws, except such lands as may be covered by approved selections; provided the restoration shall not affect rights acquired within the primary or granted limits of any other congressional grant.

As to lands covered by unapproved selections, applications to make filings and entries thereon may be received, noted, and held subject to the claim of the company, of which claim the applicant must be distinctly informed, and memoranda thereof entered upon his papers. Whenever such application to file or enter is presented, alleging upon sufficient prima facie showing that the land is from any cause not subject to the company's right of selection, notice thereof will be given to the proper representative of the company, which will be allowed thirty days after service of said notice within which to present objections to the allowance of such filing or entry. Should the company fail to respond or show cause before the local officers why the application should not be allowed, said application for filing or entry will be admitted, and the selection held for cancellation; but should the company appear and show cause, an investigation will be ordered under the rules of practice to determine whether said land is subject to the right of the company to make selection of same, which shall be determined by the register and receiver, subject to the right of appeal in either party.

When appeals are taken from the decision of the register and receiver to your office in the class of cases herein provided for, you will dispose of them without delay, and if the decision of your office shall be in favor of the company, and no appeal be taken, the land shall be approved or certified for patent, without requiring further action on the part of the company except the payment of fees and dues. If the decision of your office

should be adverse to the company, and no appeal be taken, the selection will be canceled, and the filing or entry allowed, subject to compliance with the law.

The order of revocation herein directed shall take effect as soon as issued, but filings and entries of the lands embraced therein shall not be received until after giving notice of the same by public advertisement for a period of thirty days; it being the intention of this order that, as against actual settlement hereafter made, the orders of the department withdrawing said lands shall no longer be an obstacle. Rights heretofore attaching, both of the company and of settlers, will be decided according to the facts in each case.

If any lists of selections have been presented by the company with tender of fees, which have been rejected and not placed on file and noted on the records of the local office, you will, if said lists are in your office or in the local office, cause said selections to be noted on the record immediately, and if such lists are not in your office or the local office, you will advise the attorney of the company that they will be allowed to file in the local office said lists of selections, and the same shall be noted on the records as of the date when first presented; provided the same be presented before the lands are opened to filings and entries.

Very respectfully,

L. Q. C. LAMAR,
Secretary.

[Endorsed]: Plaintiffs' Exhibit A3. To deposition of Joseph Crawford, Los Angeles, Cal., Oct. 8, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A4."

F. M. W. J. M.
H. W. H. (4-207.)

Department of the Interior.

General Landoffice,

Washington, D. C., Nov. 12, 1895.

I, S. W. Lamoreux, commissioner of the general landoffice, do hereby certify that the annexed copy of a protest by the Southern Pacific Railroad Company, and dated November 16, 1887, is a true and literal exemplification of the original on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

S. W. LAMOREUX,
Commissioner of General Landoffice.

Washington, D. C., November 16, 1887.

Hon. L. Q. C. Lamar, Secretary of the Interior.

Sir: In March last, the commissioner of the general landoffice recommended the restoration of sundry of the lands in California, withdrawn to await the adjustment of the grants of lands in both granted and indemnity limits of the Southern Pacific Railroad Company of California, along the lines of completed roads, both upon the main line (act July 27, 1866) and the branch line (act March 3, 1871).

On the 23d May, the honorable secretary of the interior addressed the said company, calling for any reasons it

might see fit to submit why the withdrawals of indemnity lands along its lines should not be revoked. This call was answered by a printed statement filed June 20, 1887, and upon the 27th June the honorable secretary heard oral argument upon the whole subject.

Under date of the 15th August, he made an order directing the setting aside of the withdrawals of indemnity lands and their restoration to market.

The object of this communication is to protest against any further action for the restoration of lands within granted limits.

1. Because the rights of the company to all the lands within its 20-mile limits are vested by the definite location and final completion of the roads opposite the lands mentioned in the commissioner's report of March last.

If the question be what particular tracts are granted within said limits, and what not granted, or excepted from grant, this question does not properly arise now, because there is no case before the department requiring a decision, and it is contrary to established principles of action to make decisions, when there is no case requiring it. Cases will arise in the future, because the company now claims, and I am advised will claim, every odd-numbered tract within limits, not expressly excepted from grant. What is excepted can only be determined in each particular case. This is fully recognized by the order of the 15th August.

That restoration was limited so as "not to affect rights acquired within the primary or granted limits of any other congressional grant."

That order of 15th August, as applicable to the indemnity tracts, also recognized the obligation of the department to determine separately the conflicting claims to each individual tract, where there are opposing claims.

Moreover, the final determination of the question of title under the grants has become a judicial one, because, as stated, the company's right initiated by definite location of the roads, has become vested by their completion. (97 U. S. Rep. 491; 156 U. S. Rep. 360; 112 U. S. Rep. 414; 114 U. S. Rep. 373.)

2. It has been both administratively and judicially determined that the lands of odd-numbered sections within twenty (20) miles of the roads were withdrawn by force and effect of the acts of Congress making the grants.

(See Case of Queen vs. So. Pac. R. R. Co., Copp's L. O. for April, 1876, p. 5, Decision of Secretary Delano, never overruled.)

The act of Congress of 1866, sec. 6, says said lands "shall not be liable to sale or entry, or pre-emption, before or after they are surveyed, except by said company as provided in this act."

They are, therefore, by law withdrawn and are removed from executive restoration. Both these points are determined by the United States Circuit Court for California in the case of Orton vs. R. R. Company, 6 Sawyer's Reps. 157, where we find the following language:

"There is no provision of law requiring the secretary of the interior to issue any order withdrawing them;

the act itself has that operation by its own force. The order was doubtless proper," etc. * * *

"As there is no authority anywhere in the act for the secretary of the interior to revoke the withdrawal, or restore the lands to market, or subject them to pre-emption, his various orders are nullities, as he had no authority whatever to repeal or modify the act of Congress, expressly withdrawing these lands from pre-emption or other disposition."

These principles apply to the grant by act March 3, 1871, and are affirmed in R. R. Company vs. Dull, 10 Sawyer's Rep. 506. (See, likewise, Buttz vs. North Pac. R. R. Co., 119 U. S. Rep., p. 55.) This principle applies to the entire lines of both roads.

Surely, the executive authority cannot set aside the legitimate results of the acts of Congress, or repeal the acts.

3. The grants to the Southern Pacific Railroad Company by act of 27th July, 1866, and 3d March, 1871, are separate and distinct from each other, and from the grant to the Atlantic and Pacific Company, since forfeited as to lands in California.

As separate grants they are entitled to several adjustments.

The Atlantic and Pacific, though as respects the branch line a prior grant, having utterly failed, the grant of 3d March, 1871, to the Southern Pacific Railroad Company of California has taken full effect.

In a case recently decided by the department (5 Decisions, p. 549), the secretary held that the following words made two separate grants (16 Stat. p. 94):

"That for the purpose of aiding in the construction of a railroad and telegraph line from Portland to Astoria, and from a suitable point of junction near Forest Grove to the Yamhill river, near McMinnville, in the State of Oregon," etc.

If this language gives two grants for two separate roads in Oregon, it seems to be much clearer that the grants to the Southern Pacific Company are several and independent, and entitled to full adjustment as against the United States. No prior or simultaneous grant for a road never constructed can interfere, especially after a forfeiture of such prior grant.

This communication is not intended as an argument on questions that may hereafter arise, but as a very earnest and serious protest against any further order or decision of the department to restore lands within the granted limits of either of the two roads of the Southern Pacific Railroad Company of California.

Very respectfully,

Your obedient servants,

HENRY BEARD,
JOS. K. McCAMMON,
Attys.

[Endorsed]: 10,526. Department of the Interior. L. & R. R. Div. Received Nov. 26, 1887. General Landoffice. Nov. 29, 1887. 28,900. Beard, Henry. McCammon. J. K. City. Nov. 16, '87. Protest against further action by dept. rel. to restoring lands in granted limits of S. P. R. R. A. A. G. F. 1887. 128,900-1. E. 4.

Plaintiffs' Exhibit A4. To deposition of Joseph Crawford. Los Angeles, Cal., Oct. 8, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A5."

M. N.

F. (4-207.) S. S. M.

Department of the Interior.

General Landoffice,

Washington, D. C., August 29, 1895.

I, E. F. Best, acting commissioner of the general landoffice, do hereby certify that the annexed copy of the record of the hearing had before the register and receiver of the Los Angeles, California, land district in the case of Joseph Crawford v. S. P. R. R. Co., involving the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., California, is a true and literal examplification of the same as it appears on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] E. F. BEST,

Acting Commissioner of General Landoffice.

United States Landoffice.

Los Angeles, Cal., July 9, 1891.

NOTICE.

Joseph Crawford having made application to this office to make homestead entry for the N. W. ¼, sec. 17, T. 7 S.,

R. 3 E., S. B. M., alleging settlement thereon July 30, 1887, and said land having been selected by the S. P. R. R. Co. as indemnity, on Oct. 3, 1887, and a hearing having been ordered by commissioner's letter "F," January 8, 1891, it is hereby ordered that all parties in interest appear before this office on August 19, 1891, at 10 o'clock A. M., at which time a hearing will be held to determine the rights of the respective parties thereto.

W. H. SEAMANS,
Register.

[Endorsed]: Joseph Crawford vs. S. P. R. R. Co. Ordering hearing. Service accepted this 10 July, 1891. C. Cabot, Atty. for S. P. R. R. Co. Service accepted above date. F. Jordan, Atty. for Crawford.

(Affidavit.) (4-063.)

HOMESTEAD.

Landoffice at Los Angeles, Cal., Oct. 14, 1890.

I, Joseph Crawford, of San Diego Co. having filed my application No. ———, for an entry under section No. 2,289, Revised Statutes of the United States, do solemnly swear that I am a native-born citizen of the United States, over 21 years of age, and settled July 30, 1887; that said application, No. ———, is made for the purpose of actual settlement and cultivation; that said entry is made for my own exclusive benefit, and not directly or indirectly for the benefit or use of any other person or persons whomsoever; and that I have not heretofore had the benefit of the homestead laws.

JOSEPH CRAWFORD.

Sworn to and subscribed this 14th day of Oct. 1890, before

I. H. POLK,
Receiver of the Landoffice.

NOTE.—If this affidavit be acknowledged before the clerk of the court, as provided for by sec. 2,294, U. S. Revised Statutes, the homestead party must expressly state herein that he or some member of his family is residing upon the land applied for, and that bona fide improvement and settlement have been made. He must also state why he is unable to appear at the landoffice.

Electros. (12614-100 M.)

[The following appears as marginal notes:]

See note, which clerks of the courts and registers and receivers will read and explain thoroughly to persons making application for lands where the affidavit is made before either of them. (See directions to landofficers on duplicate receipt.)

Timber land embraced in a homestead, or other entry not consummated, may be cleared in order to cultivate the land and improve the premises, but for no other purpose. If, after clearing the land for cultivation, there remains more timber than is required for improvement, there is no objection to the settler disposing of the same. But the question whether the land is being cleared of its timber for legitimate purposes is a question of fact which is liable to be raised at any time. If the timber is cut and removed for any other purpose it will subject the entry to cancellation, and the person who cut it will be liable to civil suit for recovery of the value of said timber, and also to criminal prosecution under section 2,461 of the Revised Statutes.

(4-102 b.)

(To be used in all entries since August 30, 1890.)

AFFIDAVIT.

U. S. Landoffice at Los Angeles, Cala.

Date, Oct. 14, 1890.

I, Joseph Crawford, of San Jacinto, Cal., applying to enter (or file for) a Hd., do solemnly swear that since August 30, 1890, I have not entered under the land laws of the United States, or filed upon, a quantity of land, agricultural in character and not mineral, which, with the tracts now applied for, would make more than 320 acres, ——— for ——— settled upon by me prior to August 30, 1890. Said settlement was commenced July 30, 1887, and my improvements consisted of house, fencing, and cultivated land.

JOSEPH CRAWFORD.

(Signed plainly with full Christian name).

Sworn to and subscribed before me this 14th day of Oct., 1890, at my office in ——— County, ———.

I. H. POLK,

Receiver.

In the U. S. Landoffice
At Los Angeles, California. } 1.

In the matter of the Hd. Application of Joseph Crawford, for the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M. Selected by the S. P. R. R. Co. Oct. 3, 1887. Personally

appeared before me Joseph Crawford, who being duly sworn deposes and says: I am the homestead applicant for the above-described land, and made settlement thereon July 30, 1887, and that my improvements consist of cleared and cultivated land, fencing and house, valued at $400.00. And it is my only home and residence, and it has been my only home since settlement, and that I am a single man. JOSEPH CRAWFORD.

Subscribed and sworn to before me this 14th day of October, 1890. I. H. POLK,
Receiver.

Also appeared at the same time and place Ozro C. Tripp, who, being duly sworn, deposes and says: That the above and foregoing affidavit is true, and that he is well acquainted with all the facts set forth therein.

OZRO C. TRIPP.

Subscribed and sworn to before me this 14th day of October, 1890. I. H. POLK,
Receiver.

(4-062.)

NONMINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and cannot be made on information and belief.

The nonmineral affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

United States Landoffice,
Los Angeles, Cala., Oct. 14th, 1890.

Joseph Crawford, being duly sworn according to law, deposes and says that he is the identical person who is an applicant for Government title to the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M.; that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes, and that his postoffice address is San Jacinto, California. JOSEPH CRAWFORD.

I hereby certify that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant has been satisfactorily identified before me by F. Jordan, and that I verily believe

him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in Los Angeles, within the Los Angeles land district, on this 14th day of October, 1890.

I. H. POLK,
Receiver.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

Revised Statutes of the United States, Title LXX.

Crimes.—Chap. 4, Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See sec. 1750.)

(4-007.)

Application No.....

HOMESTEAD.

Landoffice at Los Angeles, Cala.,

Oct. 14th, 1890.

I, Joseph Crawford, of San Jacinto, California, do hereby apply to enter, under section 2289, Revised Statutes of the United States, the N. W. ¼ of section 17 in township 7 S., of range 3 E., containing ——— acres.

JOSEPH CRAWFORD.

Landoffice at ———,

———, 189—.

I, ———, register of the landoffice, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under section 2289, Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

———,

Register.

[Endorsed]: (4-007.) No. —. Homestead application, Joseph Crawford, Los Angeles, Calif., Oct. 14, 1890. Application and fees tendered and rejected on the ground that the tract applied for is within the indemnity limits of grant to S. P. R. R. Co., and selected by said company, Oct. 3, 1887. W. H. Seamans, Register. Section 17, town. 7 S., range 3 E., S. B. M.

In the Department of the Interior before the Hon. Commissioner of the Gen. Landoffice, Washington, D. C., 1.

In the Matter of the Application of Joseph Crawford to enter a homestead, the N. W. ¼, sec. 15, T. 7 S., R. 3 E., S. B. M., the same being rejected by the local office, for the reason that said land was selected by the S. P. R. R. Co., October 3, 1887.

APPEAL.

Said applicant appeals from the decision of the local office in rejecting said application, and assigns as error and exceptions thereto, to wit:

1. Error in rejecting application because said land was public land, subject to entry.

2. Because said land has not been selected as S. P.—main line—indemnity act July 27, 1866, and was excepted from primary grant to said R. R. Co. branch line, act of March 3, 1871, as it had been previously withdrawn for the Atlantic & Pacific R. R. Co's indemnity belt, and also from S. P. R. R.—main line—indemnity grant of 1866, and was then in reservation, and not "public land."

3. The appellant settled upon said land on or about July 30, 1887, two months before said land was selected by the S. P. R. R. Co.

This land is within the indemnity belt of the grant of July 27, 1866, to the A. & P. R. R. Co. It is also within the indemnity belt of the grant to the S. P. R. R. Co.—main line—grant of July 27, 1866, which was withdrawn Jan. 3, 1867, and such withdrawal and location of road confirmed by joint resolution of both houses

of Congress, June 28, 1870. It is also within the granted limits of the S. P.—branch line—grant of March 3, 1871, withdrawn April, 1871.

The A. & P. grant in California was forfeited, resumed, and restored to entry by act of Congress of July 6, 1886.

This land has not been selected at all as S. P.—main line—indemnity under act of 1866, and could not be while withdrawn for A. & P. R. R. nor S. P. R. R.—branch line—primary. It was excepted from the S. P. R. R.—branch line—primary, act of March 3, 1871:

1. Because in 1871, it was in the A. & P. indemnity, and subject to the prospective rights of that road as provided in sec. 23 of the grant of March 3, 1871. (See Gordon vs. S. P. R. R. Co., 5 L. D. 691, and Coble vs. Same.)

2. It was excepted from S. P. R. R. Co—branch line—primary grant: Because it was previously and on Jan. 3, 1867, withdrawn for S. P. R. R.—main line—indemnity. When the grant attached in 1871, it was not public land, but was a reservation. (See above cases. Leavenworth R. R. Co. vs. U. S., 2 Otto; Newhall vs. Sanger, Id.; Wolcott vs. Des Moines, 5 Wall. 681; Woolsey vs. Chapman, 101 U. S. 755.)

For these reasons the land is subject to entry, and the entry should be allowed.

Los Angeles, California, November 1st, 1890.

Respectfully submitted,

J. JORDAN,

Atty. for Crawford, Claimant.

[Endorsed]: Joseph Crawford, Appeal. Hd. Application, N. W. ¼, sec. 17, T. 7 S., 3 E., S. B. M. Rejected for

reason of grant to S. P. R. R. Co. Filed Nov. 1, 1890. I. H. Polk, Receiver. F. Jordan, Los Angeles, Cala., Atty. for Crawford. 1890. 151642—2.

In U. S. Landoffice,

Los Angeles, Cal., Aug. 19, 1891.

In Matter of Hearing Ordered by Commissioner's letter "F" of Jany. 8, 1891, between Joseph Crawford and S. P. R. R. Co., involving N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M.

Appearances:

For Crawford, F. Jordan, Esq.

For S. P. R. R. Co., C. Cabot, Esq.

S. P. R. R. Co. moves to dismiss the application of Jos. Crawford to enter the land in controversy on the ground that said land was granted to S. P. R. R. Co. by act of Congress, approved March 3, 1871, and that in accordance with the provisions of said act of Congress, said land was withdrawn from entry by order of the secretary of the interior, dated April 3, 1871, and that thereafter, to wit, on Oct. 3, 1887, the said S. P. R. R. Co., under the provisions of said act of Congress, did select all of said sec. 17, as indemnity for all of sec. 3, T. 1 S., R. 11 W., S. B. M., by list No. 25 of lands selected by S. P. R. R. indemnity limits, branch line, and duly paid the fees prescribed for filing said list, and that said list was duly allowed and approved by R. & R., U. S. landoffice, on Oct. 3, 1887, and in support of said motion refers to decision of U. S. Supreme Court in case of St. Paul & Pa-

cific R. R. vs. N. P. R. R., decided March 2, 1891, 139 U. S., p. 1.

Motion objected to, for the reason that claimant Crawford in his homestead application herewith swears to settlement July 30, 1887, over 2 months before the land in controversy was selected by the S. P. R. R. Co. And further that the present hearing was ordered by the commissioner with a full knowledge of all the facts, "F," Jany. 8, 1891. And further that by departmental order of Aug. 15, 1887, the indemnity withdrawal for the benefit of said company, was revoked, and the unselected lands covered thereby were restored to the public domain and opened to settlement under the general land laws.

In reply to the above objection the S. P. R. R. Co. desires to call attention to that portion of the decision of the U. S. Supreme Court above referred to in which said Court holds as follows: "They were therefore excepted by that legislation from grants, independently of the withdrawal by the secretary ———— interior. His action informally announcing their withdrawal was only giving publicity to what the law itself declared."

Consequently the secretary of the interior had no authority to revoke said withdrawal, not having been authorized by any act of Congress to do so.

Exception to the immediate foregoing by Crawford, for the reason that the office of the secretary of the interior is the court of last resort in all matters pertaining to the public domain.

JOSEPH CRAWFORD, homestead claimant, called in his own behalf:

Q. When did you make settlement upon the land in controversy? A. In July, 1887.

Q. What are your improvements valued at which you now have upon it?

A. They ought to be worth $400.00.

Q. Of what do your improvements consist?

A. A house, fencing. I have grubbed over 100 acres on it, and I have cultivated and planted over 15 acres to wheat and barley every year since I took it up.

Q. Have you any other home or residence?

A. No, sir.

Q. Have you any crop on the land at present, and if so how many acres, and what is its value?

A. Yes. I have 15 acres of *propo* wheat. I do not know its value.

Cross-Examination.

Q. When you settled upon the land did you know that the land was reserved from entry for the benefit of the S. P. R. R. Co.? A. No, sir.

Q. Did you ever make any application to buy the land from the S. P. R. R. Co.? A. Yes; I did.

Q. When did you make that application?

A. I can't give the date?

Q. Was it not on July 25, 1887?

A. I don't remember. I couldn't say. I have the application at home. I had been on the land some time before I made it.

Q. Did you not receive a notice from the S. P. R. R.

Co., dated Sept. 9, 1889, citing you to appear at the office of C. Cabot on Oct. 9, 1889, at 11 A. M. to present your claim to the right to purchase all of said sec. 17, under your application dated July 25, 1887, and notifying you of the price of said land? A. Yes, sir.

Q. Did you not also at the same time make application to S. P. R. R. Co. on the same day to purchase S. ½ of sec. 7 in the same township? A. Yes, sir.

Q. And did you not also receive a similar notice to appear before C. Cabot on Oct. 9, 1889, to present your claim to said land?

A. Yes; the same notice covered both pieces.

Q. Was not at the time you made both those applications O. C. Tripp interested with you in the purchase of both those tracts of land?

A. Yes, sir.

Q. Did he own any portion of the improvements or have any interest in the cultivation of said land?

A. No, sir.

Q. Did O. C. Tripp pay any portion of the expense in clearing this land? A. No, sir.

Q. What interest did Tripp have in those applications?

(Objected to unless the inquiries are directed to the land actually in contest—i. e., N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M.)

A. He wanted a piece of sec. 17—the E. ½ of it.

Q. Was that application made by him and you with that understanding?

A. That is the way we talked it, but that was after I took up my homestead.

Q. Do you recollect presenting to the U. S. landoffice, on Oct. 7, 1887, an application to make homestead entry for N. W. ¼, sec. 17?

A. I made an application for it, I don't remember when.

(Attorney for Crawford admits the record.)

(In connection with that answer S. P. R. R. Co. offers in evidence, tract book of Twp. 7 S., R. 3 E., to show what the record is, viz: "Homestead application N. W. ¼, Joseph Crawford, Oct. 7, 1887, withdrawn.")

Q. Do you know when that application was withdrawn?

A. I don't remember. It was when Mr. Bethune was register.

(S. P. R. R. Co., in connection with the foregoing answers, also offers tract-book to show that Jos. Crawford made a second application to file on the same tract, Oct. 14, 1890, being the application on which the present hearing was ordered.)

Q. Did you ever appeal to the commissioner general landoffice from action of R. & R. in refusing to accept and file the application to make homestead entry for the land in controversy presented by you Oct. 7, 1887, or take any action in the matter other than to withdraw said application.

A. No; I took no action.

JOS. CRAWFORD.

Subscribed and sworn to before me this Aug. 19, 1891.

G. W. BRYANT.

Receiver.

OZRO C. TRIPP, witness for Crawford.

Q. Are you acquainted with the land in controversy, and, if so, how long have you known it?

A. Yes; I have known it 10 years.

Q. How far do you live from it, and when did you last see it?

A. Five miles. I last saw it ten days ago.

Q. State if you know when the claimant settled upon it; his improvements and their value.

A. About June, 1887. His improvements are worth about $400.00, and consist of house, fencing, clearing of brush, and plowing and breaking land.

Q. How many seasons has he raised crops on it, if you know?

A. About 3 seasons. He has a crop of 10 or 15 acres of wheat on the land now.

Q. Has he any other home or residence?

A. No, sir.

Cross-Examination.

Q. Was the application to purchase all of section 17 made to S. P. R. R. Co. by yourself and Jos. Crawford to S. P. R. R. Co. in 1887, made with your consent?

A. Yes, sir.

Q. Do you know Jno. E. Jackson, grading agent of S. P. R. R. Co.? A. Yes, sir.

Q. Did you see him at the time he appraised sec. 17?

A. Yes, sir.

Q. Did you have any conversation with him in regard to this sec. 17?

A. Yes, sir. I told him we would buy it if they would sell it cheap enough.

Q. Do you recollect when he was there?

A. Yes. About 2 years ago.

Q. In Mr. Jackson's report to the R. R. Co. he reported as follows: "Small house and some cultivation on N. W. ¼ by Tripp and Crawford"; is not that correct?

A. No, sir.

(Motion to strike out, as the statement of grading agent was not made under oath.)

Q. Is it not a fact that at the time Mr. Jackson, the grading agent, was there, you and Crawford were jointly interested in this land?

A. No, sir; not in that quarter.

Q. Were you jointly interested in any part of section 17?

(Objection as immaterial.)

A. Yes, sir; the E. ½.

Q. Is it not a fact that you requested Jno. E. Jackson to make application to S. P. R. R. Co. in the name of yourself and Joseph Crawford for all of section 17?

A. Yes, sir.

Q. And is not that the application under which you and Joseph Crawford were cited to appear before C. Cabot at Los Angeles, Oct. 9, 1889, to present your claim for your right to purchase under your application?

A. Yes.

Q. Are you and Crawford jointly interested in the cattle business? A. No.

Q. Are you engaged in the cattle business?

A. Yes.

Q. Is Crawford also engaged in the cattle business?

A. No, sir.

Q. Have your cattle been grazing for the last 4 years over section 17?

A. No, sir; they would be if there was water there.

Q. Have they never grazed over any portion of section 17? A. Yes, sir.

Q. On the N. W. ¼ as well as the other portions?

A. Yes; they have passed through there.

Q. Are you related to Mr. Crawford or connected with him by marriage? A. No, sir.

Q. You also joined Mr. Crawford in an application for S. ½ of section 7, did you not, to the S. P. R. R. Co.?

A. Yes, sir. O. C. TRIPP.

Subscribed and sworn to before me this August 19, 1891. G. W. BRYANT,

Receiver.

JOSEPH CRAWFORD, recalled for further cross-examination.

Q. Have you in your possession the acknowledgment by the land agent of the S. P. R. R. Co. of your individual application to purchase section 17, and also the acknowledgment of the application of O. C. Tripp and yourself to purchase the same land?

A. I don't know whether I have it now or not. I did have it.

Q. Have you in your possession the notice sent to you by Jerome Madden, land agent S. P. R. R. Co., and also to Tripp and Joseph Crawford, sent by said Madden, notifying you that section 17 would be for sale on October 9, 1889, and the price of the same?

A. I got a notice, bu I think only one for Tripp and myself.

Q. Where is that notice?

A. I don't know where it is.

Q. Did you give it to Mr. Tripp?

A. I don't know whether I did or not. I don't know what I did with it.

(Witness is called upon by the S. P. R. R. Co. to search among his papers and produce in evidence the acknowledgment of the receipt by Jerome Madden, land agent S. P. R. R. Co., of the application made by O. C. Tripp and Jos. Crawford to S. P. R. R. Co. to purchase section 17, T. 7 S., R. 3 E., S. B. M., and also the notification sent to Joseph Crawford and O. C. Tripp and Joseph Crawford, or either of them, notifying them that the land would be for sale on October 9, 1889.

(Objection that the tribunal before which this case is being heard has not the power to issue a writ of duces tecum, and claimant denies all present knowledge of the papers.)

A. I can't produce them; I don't know what I did with them. I couldn't pay that price for the land.

Q. Will you swear that you know they are lost?

A. I will swear that I don't know where they are.

(Question repeated and witness instructed to give a direct answer to it.)

A. Yes.

JOS. CRAWFORD.

Subscribed and sworn to before me this Aug. 19, 1891.

G. W. BRYANT,
Receiver.

OZRO C. TRIPP, recalled for further cross-examination.

Q. Have you in your possession the acknowledgment by Jerome Madden of the application by yourself and Jos. Crawford to purchase section 17, T. 7 S., R. 3 E., S. B. M.? A. I think I have.

Q. Have you it here now? If so produce it.

A. No, sir.

Q. Have you also in your possession the notice sent you by Jerome Madden, land agent S. P. R. R. Co., notifying you that section 17 would be for sale on October 9, 1889, and the price of the same?

A. I think I have.

(S. P. R. R. Co. now asks for a continuance of the case to such time as may seem proper to register and receiver to enable witness to produce in evidence the papers he acknowledges to have in his possession, and calls upon the witness to produce them at the time designated by register and receiver. Same objection as before.)

O. C. TRIPP.

Subscribed and sworn to before me this Aug. 19, 1891.

G. W. BRYANT,
Receiver.

(Attorney for Crawford admits that said papers were received, and that Tripp is unable to produce them, as they have been lost, mislaid, or destroyed, and further, that a certified copy thereof may be admitted.)

(Motion withdrawn.)

WILLIAM B. TRIPP, witness for claimant Joseph Crawford.

Q. How long have you been acquainted with the land in controversy? A. About 13 years.

Q. State when he settled there.

A. In June or July, 1887.

Q. State what improvements he has there, if you know.

A. He has a house, fencing, land cleared and plowed; worth about $150 or 200.00.

Q. How many seasons has he raised crops on it, and how many acres in crop this year?

A. Four seasons. He has 10 acres in wheat this year.

Q. Has he any other home that you know?

A. No.

Cross-examination waived.

W. B. TRIPP.

Subscribed and sworn to before me this Aug. 19, 1891.

G. W. BRYANT,
Receiver.

Continued to Aug. 20, 1891, 9 A. M.

JOHN E. JACKSON called on behalf of S. P. R. R. Co.

Q. Are you the grading agent of the S. P. R. R. Co.?

A. Yes.

Q. Did you receive instructions from the company to grade section 17, T. 7 S., R. 3 E., S. B. M.? A. Yes.

Q. When you appraised it, who did you find there?

A. When I appraised it July 7, 1889, Ozro Tripp was along with me. He pointed out a small shanty on the N. W. ¼; it appeared to me to be somewhat near the line between the N. W. ¼ and S. W. ¼, and said the improvements belonged to him and Mr. Crawford together, and from the conversation I had with him the object of the improvements was to give them an equitable right to purchase from the S. P. R. R. Co. He never mentioned that there was any adverse claim on the part of Mr. Crawford.

Q. Is the Ozro Tripp you have just referred to the same person who is present in this room as a witness for Crawofrd? A. He is the same person.

Q. Did you see Crawford on the land at that time, or at any time?

A. I did not see Crawford on the land at that time, and never saw him there.

Q. You have been on the land oftener than once?

A. Yes, sir.

Cross-examination waived.

JOHN E. JACKSON.

Subscribed and sworn to before me this August 20, 1891.

G. W. BRYANT,
Receiver.

Motion to strike out as irrelevant, incompetent, and immaterial, and having nothing whatever to do with the

homestead entry of Crawford which was filled prior to the selection of the land in controversy by the R. R. Co.

Case closed.

Testimony in this case.....$29.34
Words, @ 22½c.....$6.60
Crawford, 824 words $1.85
S. P. R. R. 2,110 words.....$4.75

Paid in full, Aug. 20, 1891.

G. W. BRYANT,
Receiver.

[Endorsed]: A5. Plaintiffs' Exhibit A5. To deposition of Joseph Crawford, Los Angeles, Cal., Oct. 8th, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A6."

M. N. (4-207a.) S. S. M.

Department of the Interior.

General Landoffice,

Washington, D. C., August 29, 1895.

I, E. F. Best, acting commissioner of the general land-office, do hereby certify that the annexed copy of a letter addressed to the register and receiver, at Los Angeles, authorizing a hearing in the case of Joseph Crawford v. Southern Pacific R. R. Co., involving the N. W. ¼, sec. 17, 7. 7 S., R. 3 E., S. B. M., California, is a true and literal exemplification of the original as it appears of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal] E. F. BEST,

Acting Commissioner of General Landoffice.

F. M. N.

151642—'90. Vol. F. 314A., p. 223. W. C. E.

Department of the Interior.

General Landoffice,

Washington, D. C., January 8, 1891.

Register and Receiver, Los Angeles, Cal.

Sirs: With letter of December 10, 1890, there was transmitted the application of Joseph Crawford to make homestead entry for the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., together with his appeal from your objection thereof.

The land described is within the limits of the indemnity withdrawal made May 10, 1871, for the benefit of the Southern Pacific R. R. Co.—branch line—under the act of March 3, 1871, and it was selected thereby October 3, 1887, on account of which you rejected Mr. Crawford's application.

By departmental order of August 15, 1887, the indemnity withdrawal for the benefit of said company was revoked, and the unselected lands covered thereby were restored to the public domain and opened to settlement under the general land laws.

Accompanying Mr. Crawford's application is his affidavit corroborated, alleging settlement on said land July 30, 1887, and continuous residence thereon since said date. He has, accordingly, made sufficient prima facie showing that the land was not subject to selection by the company on October 3, 1887, to warrant you in calling upon the company to show cause, if any there be, why Crawford's application should not be allowed, in accordance with the directions contained in office circular of September 6, 1887.

The papers transmitted with your said letter are, accordingly, herewith returned for proper action.

You will so advise the applicant, and in due time report proceedings.

A copy of said office circular is also herewith enclosed.

Respectfully,

LEWIS A. GROFF,

Commissioner.

[Endorsed]: A6. Plaintiff's Exhibit A6. To deposition of Joseph Crawford. Los Angeles, Cal., Oct. 8th, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A7."

M. N. (4-207a.) S. S. M.

F. Department of the Interior.

General Landoffice.

Washington, D. C., August 29, 1895.

I, E. F. Best, acting commissioner of the general land office, do hereby certify that the annexed copy of the deci-

sion of the register and receiver of the Los Angeles land district, made in the case of Joseph Crawford vs. S. P. R. R. Co., involving the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M. California, and of the company's appeal from said decision, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal]

E. F. BEST,
Acting Commissioner of General Landoffice.

United States Landoffice,
Los Angeles, Cal., May 5, 1892.

JOSEPH CRAWFORD
vs.
S. P. R. R. Co.

Involving the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M.

Crawford made application October 10, 1890, to enter the above-described land under the homestead act, alleging settlement thereon July 30, 1887.

The application was rejected by this office for the reason that the land had been selected by the S. P. R. R. Co. Oct. 3, 1887. An appeal was taken, and the honorable commissioner, by letter "F" dated January 8, 1891, instructed this office as follows:

"Accompanying Mr. Crawford's application is his affidavit corroborated, alleging settlement on said land July 30, 1887, and continuous residence thereon since said date.

He has, accordingly, made sufficient prima facie showing that the land was not subject to selection by the company on October 3, 1887, to warrant you in calling upon the company to show cause, if any there be, why Crawford's application should not be allowed in accordance with the directions contained in office circular of September 6, 1887."

A hearing was ordered by this office, and set for August 19, 1891, when the parties in interest were present.

The testimony taken at the hearing shows that Crawford made settlement on the land in July, 1887, and has resided thereon and cultivated the same continuously to the date of this hearing.

There is no testimony on the part of the S. P. R. R. Co. to controvert this; we are therefore of the opinion that according to the instructions contained in circular of September 6, 1887, and the rulings in numerous decisions of the department, the land was not subject to selection by the company on October 3, 1887, and we recommend that the application of Crawford to enter the land as a homestead be allowed.

W. H. SEAMANS,
Register.

G. W. BRYANT,
Receiver.

[Endorsed]: U. S. Landoffice, Los Angeles, Cal., May 5, 1892. Joseph Crawford vs. S. P. R. R. Co. Decision of Register and Receiver. 9—8729. Service of within accepted this May 11, 1892. F. Jordan, Atty. for Crawford. C. Cabot, Atty. for S. P. R. R. Co.

In the United States Landoffice.
Los Angeles, Cal.

JOSEPH CRAWFORD
vs.
S. P. R. R. Co.

The Southern Pacific Railroad Company hereby appeals to the honorable commissioner of the general land-office from the decision rendered by the register and receiver in the above-entitled case, and specifies as error:

I.

Said decision is contrary to law and the evidence.

II.

The register and receiver erred in recommending that the homestead application of Crawford be allowed.

III.

The register and receiver erred in finding that the land was not subject to selection by the Southern Pacific Railroad Company by reason of the settlement of Crawford upon the land.

IV.

The register and receiver erred in not finding that the grant to the Southern Pacific Railroad Company was one of quantity, and that the indemnity lands as well as the lands in place were granted, and consequently not subject to sale or disposal except by said Southern Pacific Railroad Company.

V.

The register and receiver erred in not finding that Crawford never made any settlement upon the land with the intention of claiming the same under any of the land laws of the United States, but that his settlement was made for the purpose of acquiring the preference right of purchase from said Southern Pacific Railroad Company as an actual settler under their rules.

VI.

The register and receiver erred in not finding that said settlement of Crawford was not made in good faith, and that it was made at the instigation of and in the interest of Tripp, who used said Crawford and induced him to settle upon said land for the purpose of securing the land for himself, the said Tripp.

VII.

The register and receiver erred in not finding that a prior application to make homestead entry of said tract by said Crawford had been rejected by said register and receiver, and that the failure of said Crawford to appeal from said rejection forfeited any right he may have had to enter said land under the homestead laws, as against the selection of said land by said Southern Pacific Railroad Company, which was made prior to his said application, and became valid by reason of his failure to appeal from the said rejection.

C. CABOT,
Atty. for S. P. R. R. Co.

[Endorsed]: A7. In the U. S. Landoffice, Los Angeles, Cal. 9—8729. Joseph Crawford vs. S. P. R. R. Co.

Appeal. Service of copy accepted this 27th day of May, 1892. F. Jordan, Atty. for Crawford. C. Cabot, Atty. for S. P. R. R. Co. Filed May 27, 1892. W. H. Seamans, Register. Plaintiff's Exhibit A7. To deposition of Joseph Crawford, Los Angeles, Cal., Oct. 8, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A8."

M. N. (4-207a.) S. S. M.

F. Department of the Interior.

General Landoffice,

Washington, D. C., August 29, 1895.

I, E. F. Best, acting commissioner of the general landoffice, do hereby certify that the annexed copy of the decision of this office made in the case of Joseph Crawford vs. S. P. R. R. Co., involving the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., California, and of the appeal of the company therefrom, are true and literal exemplifications of the originals of record and on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal] E. F. BEST,

Acting Commissioner of General Landoffice.

TRANSCRIPT OF RECORD.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1901.

No. .....

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,

vs.

THE UNITED STATES OF AMERICA,
Appellees.

VOL. V.

(Pages 1855 to 2481, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Filmer Brothers Co. Print, 424 Sansome St., S. F.

M. N.
F. Vol. F. 334 A., p. 433. W. C. E.
W. O. C.
77684.—'92 E. C. S.

Department of Interior.

General Landoffice,

Washington, D. C., August 12, 1892.

Register and Receiver, Los Angeles, Cal.

Sirs: With your letter of June 7, 1892, you forwarded the papers in the case of Joseph Crawford vs. Southern Pacific R. R. Co., involving the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., together with the company's appeal from your decision in favor of contestant.

Said tract is within the limits of the indemnity withdrawal made April 3, 1871, for the company named under the grant of March 3, 1871, and the records show it to have been selected October 3, 1887.

The withdrawal of these lands from pre-emption and settlement was revoked August 15, 1887 (6 L. D. 93), such revocation applying to all lands within indemnity limits except such as were covered by the company's selections. The order of August 15th made the restored lands subject to settlement from its date, but barred a filing or entry until thirty days after restoration to the public domain by advertisement for thirty days. This time expired October 7, 1887.

At the hearing, it was shown that Crawford settled upon the land in question in July, 1887, and that he was residing thereon and claiming it at the date of revocation of the withdrawal, as well as at the date of selection.

This, you held, defeated the company's selection, and recommended its cancellation and the allowance of Crawford's homestead application for the land.

In the appeal, the company's counsel alleges several errors in your decision, the most important of which is that the contestant's settlement was not made in good faith, but that it was made at the instigation of and in the interest of another, and that it was made for the purpose of acquiring the preference right of purchase from the company.

But I find nothing in the record to sustain these allegations, and, as your decision is in accord with the rulings of the department (see S. P. R. R. Co. vs. Stocks, 14 L. D., 192, and cases therein cited), it is now affirmed, subject to appeal within sixty days.

You will so advise contestant; also, that upon cancellation of the company's selection covering the land he will be permitted to enter it.

Very respectfully,

I. R. CONWELL,
Acting Commissioner.

John B. Bloss,
908 G. Street N. W., Washington, D. C.
On Appeal.

To the Hon. Secretary of the Interior, Hon. Commissioner of the General Landoffice.

Sir: Please take notice that the Southern Pacific Railroad Company hereby appeals to the honorable secretary of the interior from your decision "F," of August 12, 1892,

holding the company's selection of the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., Los Angeles, California, for cancellation in favor of Joseph Crawford under his homestead application.

The township plat was filed in the local office February 12, 1877. The said company selected said tract October 3, 1887, per list 25, duly designating the land lost. Crawford made his homestead application October 14, 1890, alleging a settlement on the land July 30, 1887.

The said company, as grounds of error in and exception to your decision, allege:

1. Error in holding the company's selection for cancellation, it having been duly certified to by the register and receiver, that there was no claim of record adverse to the company, and that the land was subject to selection by the company on October 3, 1887.

2. Error in holding that Crawford was entitled to homestead the land October 14, 1890, upon an allegation of settlement July 30, 1887.

First. If Crawford settled on the land at that date, it having been surveyed, he was required to file his application within three months from date of settlement; for if he settled on the land "with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States landoffice as is now allowed to settlers under the pre-emption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the pre-emption laws." (3 Sec., Act May 14, 1880; 21 Stat. 140.)

The general circular issued February 6, 1892 (page 11), referring to this law says "that the period of continuous residence and cultivation begins to run at the date of actual settlement, in case the entry at the district land-office is made within the prescribed period (three months) thereafter, or before the intervention of an adverse claim." As Crawford did not file his application within three months after settlement, and the adverse claim of the company had intervened and been of record three years before he offered at the local landoffice his homestead application, it was clearly error for the commissioner to hold it could then be received and his right dated back of the company's selection.

Second. That the company's selection took effect from its date is too well settled by decision of the department to require the citation of authorities. Its selection was made October 3, 1887. At that date there was no claim against it, and not until three years afterward did Crawford assert one antedating settlement. He was then too late, because "a homestead settler who fails to make application for the right of entry within the period provided by the act of May 14, 1880, is not thereafter protected as against the claim of another who has complied with the law." Pruitt vs. Skeens, 12 L. D., 629; Christensen vs. Methorn, 7 L. D. 537; M. B. McNeal, 6 L. D. 653.

I therefore ask that the commissioner's decision be reversed, and that the company's selection be held intact.

Very respectfully,

JNO. B. BLOSS,

Attorney Southern Pacific R. R. Co.

Washington, D. C., Oct. 6, 1892.

(Registered (Letter) No. 404. P. O. Washington, D. C.
(Parcel)

Received 10-6, 1892, of Jno. B. Bloss.

908 G. N. W.

A (Letter) addressed to F. Jordan
(Parcel)

Atty. at Law, Los Angeles, California.

Henry Sherwood, P. M., per Sage.

District of Columbia, }
County of Washington. } ss.

John B. Bloss, being duly sworn, says, that on this day he mailed to F. Jordan, Esq., Los Angeles, California, the attorney of Joseph Crawford, a copy of the above appeal.

JOHN B. BLOSS.

Subscribed and sworn to before me, this 6th day of October, 1892.

[Seal] W. CLARENCE DUVALL,
Notary Public,
D. C.

[Endorsed]: A8. Plaintiffs' Exhibit A8. To deposition of Joseph Crawford. Los Angeles, Cal., Oct. 8, 1896. H. S. Rollins, Notary Public.

Plaintiffs' Exhibit "A9."

M. N. (4-207a.) S. S. M.

Department of the Interior.

General Landoffice,

Washington, D. C., August 29, 1895.

I. E. F. Best, acting commissioner of the general landoffice, do hereby certify that the annexed copy of the de-

cision of the department made in the case of Joseph Crawford vs. S. P. R. R. Co., involving the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., California, and of a letter from this office to C. P. Huntington, demanding the reconveyance of said land to the United States, are true and literal exemplifications of the originals on file and of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal] E. F. BEST,
Acting Commissioner of General Landoffice.

I. I. H. E. F. B. F. W. C.

Department of the Interior. E. W.

18—898. Washington, August 18, 1894.

SOUTHERN PACIFIC R. R. CO.
vs.
JOSEPH CRAWFORD.

The Commissioner of the General Landoffice.

Sir: With your office letter "F" of March 2, 1893, was transmitted the record in the case of the Southern Pacific Railroad Company vs. Joseph Crawford, involving the N. W. ¼, sec. 17, T. 7 S., R. 4 E., S. B. M., Los Angeles land district, California, on appeal by the company from your office decision of August 12, 1892, holding for cancellation the company's selection of said land, with a view

of allowing the application by Crawford presented therefor.

This tract is within the indemnity limits of the grant for said company along its branch line, and had not been selected prior to the revocation of the order of withdrawal of the indemnity lands on account of this grant which took effect August 15, 1887. Selection was, however, made on October 3, 1887. Upon an application to enter said land filed by Crawford, in which settlement was alleged prior to the selection of October 3, 1887, hearing was had, resulting in a decision of the local officers in favor of Crawford, it being found that he had settled upon the land in July, 1887, and that he was residing thereon and claiming the same at the date of the revocation of the indemnity withdrawal, namely, August 15, 1887.

Your office decision held that such settlement was a bar to the subsequent selection by the company which was held for cancellation with a view of allowing Crawford's application as before stated. From said decision the company appealed, but it now appears upon inquiry at your office that since the filing of said appeal, to wit, on November 5, 1892, the land was patented on account of said grant. By the issue of said patent the land has passed beyond the jurisdiction of this department, and while under the rulings your decision is a proper one, and should be affirmed, yet it will be necessary that the company reconvey the land upon demand or that the patent be set aside by the courts, before Crawford can be permitted to make entry as applied for.

I have therefore to direct that you demand of the company a reconveyance of this land (the patent for which issued while the case under consideration was pending), under the provisons of the act of March 3, 1887 (24 Stat., 556), and, at the expiration of the time allowed under the statute within which to make reconveyance as demanded, that you report to this department the action taken, for such further action as may be warranted by the facts as then presented.

Herewith are returned the papers that the full record may be returned when reporting the result of the demand.

Very respectfully,

HOKE SMITH,

Secretary.

United States Landoffice.

Los Angeles, California, October 16th, 1890.

In the matter of the homestead application of Joseph Crawford for the N. W. ¼, sec. 17, T. 7 S., R. 3 E., S. B. M., rejected by the local office Oct. 14, 1890.

I hereby appoint F. Jordan of Los Angeles, California, to be my attorney to appeal in the above matter.

Witness my hand and seal, year and date first above written.

[Seal] JOSEPH CRAWFORD.

[Endorsed]: Joseph Crawford. Power of Atty. to F. Jordan. In re appeal Hd. Application conflict with S. P. R. R. Co. Filed Nov. 24, 1890. I. H. Polk, Receiver.

F. W. J. D. J. V. W.

Department of the Interior.

General Landoffice,

Washington, D. C., September 11, 1894.

C. P. Huntington, Esq., Prest. Southern Pac. R. R. Co.,
New York, N. Y.

Sir: Enclosed herewith find copy of departmental decision of August 18, 1894, in the case of the claim of Joseph Crawford vs. The Southern Pacific Railroad Company, involving the N. W. ¼ of sec. 17, T. 7 S., R. 3 E., Los Angeles district, California, in which it is shown that the said tract was erroneously patented to said company November 5, 1892; and, in accordance with the secretary's instructions, you, as president of said company, owning and controlling its land grant, are requested, under act of March 3, 1887, to reconvey the said tract to the United States within ninety days from receipt hereof; otherwise, suit will be instituted under said act to vacate the patent for the tract aforesaid.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

[Endorsed]: U. S. vs. S. P. R. A9, Sec'ys Decision. Plaintiff's Exhibit A9. To deposition of Joseph Crawford, Los Angeles, Cal., Oct. 8th, 1896. H. S. Rollins, Notary Public.

[Endorsed]: Consolidated Nos. 587, 662, 675. In the United States Circuit Court, Ninth Circuit, Southern Dis-

trict of California. The United States, Complt., vs. Southern Pacific Railroad Co. et al., Defts. Deposition of Joseph Crawford.

Memo. of Costs.

Admr. Oath (1)	.25
Testimony, 27½ fol., @ 20 cents	5.50
Exhibits (9)	.90
Certificate	1.00
	$7.65

Opened and filed Mar. 29, 1899. Wm. M. Van Dyke, Clerk.

Wm. Herbert Smith,
Telephone No. 910.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA, Plaintiffs, vs. SOUTHERN PACIFIC RAILROAD COMPANY et al. — Consolidated No. 675.

Report of William Herbert Smith, Esq., Special Examiner in Chancery.

Before Wm. Herbert Smith, Special Examiner and Stenographer.

For the United States of America, J. H. Call, Esq.
For the defendants, L. E. Payson, Esq.

WM. HERBERT SMITH,
Law Reporter, Columbia Law Building, 416 5th Street N. W., Washington, D. C.

At a stated term, to wit, the August term, A. D. 1896, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the 5th day of October, in the year of our Lord one thousand eight hundred and ninety-six. Present: The Honorable OLIN WELLBORN, District Judge.

THE UNITED STATES OF AMERICA, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.	Nos. 675, 587, and 662. Consolidated.

Order Appointing Special Examiner.

Upon motion of Joseph H. Call, Esq., special assistant United States attorney, and good cause appearing therefor, and no objection being made by defendants, it is ordered that William Herbert Smith of Washington, District of Columbia, be, and he is hereby, appointed a spe-

cial examiner and stenographer of this court to take the testimony in said cause, said testimony, when so taken, to be transmitted to this Court in accordance with the rules of Court.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court, October 5th, 1896, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, Nos. 675, 587, and 662, consolidated, and remaining of record therein.

Attest my hand and the seal of said Circuit Court, this 12th day of October, A. D. 1896.

[Seal] WM. M. VAN DYKE,
Clerk.

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiffs,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Consolidated Nos. 587, 675, 662.

Notice to Take Testimony.

To the defendants in the above-entitled cause, and to Walter J. Trask, Lewis E. Payson, William Singer, Junior, William F. Herrin, W. H. H. Hart, Page, McCutcheon & Eells and Butler, Notman, Joline & Mynderse, attorneys and counsel for said defendants:

You will please take notice that on the fourteenth day of November, A. D. 1896, at the hour of 10 o'clock A. M., the United States will take the testimony in said cause of the following-named witnesses: Colonel Barlow, Charles

Satterlee and others. Said testimony will be taken before William Herbert Smith, a special examiner and stenographer, duly appointed by said Court in this said cause in that behalf, and will be taken at the office of said William Herbert Smith, at No. 416 Fifth street northwest in the city of Washington, D. C., and the taking of such testimony will be continued from time to time and from place to place, as may be determined by said special examiner, until completed. You are requested to appear before said special examiner in the taking of such testimony and cross-examine the witnesses.

JOSEPH H. CALL,
Special Assistant United States Attorney and of Counsel for Complainants.

State of California,
County of Los Angeles. } ss.

Jesse F. Waterman, being first duly sworn, deposes and says: That on the fifth day of November, 1896, he served the foregoing and annexed notice to take testimony upon the defendants therein named and upon their attorney and solicitors, as follows: That on said date above-named he delivered a copy of said notice to the above-named Walter J. Trask, an attorney of record in said cause for the said defendants, at the office of said Trask, in the city of Los Angeles, California, and also by filing a duplicate original of said notice to take testimony in the office of the clerk of the United States Circuit Court for the Southern District of California.

Affiant further states that each of the above-named defendants and each of their attorneys and solicitors above-named, except said Trask, is a nonresident of the Southern District of California, and said attorneys, and neither of them, has designated any person or place upon whom or where service of notices may be had for taking testimony, or other proceedings in said cause, as required by the rules of said United States Circuit Court for said district. Affiant further states that the rules of said court provide that where any party in any cause in said court is a nonresident of said district and appears by an attorney, who is also a nonresident of said district, who does not designate a place within the city of Los Angeles where notices are to be served on him, that a filing of any notice or paper in the case in the clerk's office, with the papers in the case, shall be sufficient service. Affiant further states that in pursuance of said rules of said court he served the parties in said cause and their solicitors, other than said Walter J. Trask, in conformity with said rule as aforesaid.

JESSE F. WATERMAN.

Subscribed and sworn to before me this 5th day of November, 1896.

[Seal] GEORGE L. KEEFER,

Notary Public for Los Angeles County, California.

[Endorsed]: Nos. 587, 675, 662. In the U. S. Circuit Court, Ninth Circuit, Southern District of Cal. United States vs. Southern Pacific Railroad Co. et al. Notice to take testimony. Joseph H. Call, Atty. for Plaintiffs.

In the Circuit Court of the United States, Southern District of California, Ninth Circuit.

No. 675.

THE UNITED STATES OF AMERICA,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY.

No. 587.

THE UNITED STATES OF AMERICA,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and GERRIT L. LANSING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY.

No. 662.

THE UNITED STATES OF AMERICA,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY.

Order of Special Examiner Fixing Time for Taking Testimony.

Washington, D. C., November 4th, 1896.

I, William Herbert Smith, special examiner in chancery in the cases of the United States of America against

the Southern Pacific Railroad Company and others, now depending in the United States Circuit Court for the Southern District of California, in pursuance of the annexed copy of the order of said Court appointing me as the special examiner to take testimony in said cause, do hereby certify that, on the above date, Mr. Joseph H. Call, special assistant United States attorney, appeared before me at my office, No. 416 Fifth street northwest, in the city of Washington and District of Columbia; and in pursuance of his application, it is hereby ordered that the taking of the testimony in said cause shall commence before me at my office, No. 416 Fifth street northwest, in said city of Washington and District of Columbia, on the 14th day of November, A. D. 1896, at 10 o'clock A. M., and shall continue thereafter at such time and places as may be determined by the undersigned.

And it is further ordered that notice be given to the defendants in said suit, or to their counsel, of the time and place for the taking of said testimony, which notice shall be given in conformity with the rules of the United States Circuit Court for the Southern District of California.

Witness my hand this 4th day of November, A. D. 1896.

WM. HERBERT SMITH,
Special Examiner.

United States Circuit Court, Ninth Circuit, Southern District of California.

THE UNITED STATES OF AMERICA,

Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD CO et al.,

Defendants.

Consolidated Nos. 587, 662, 675.

Order Setting Time for Hearing.

In pursuance of the foregoing order requiring service to be made upon the defendants for taking the testimony herein, and in pursuance of the annexed order of the Court, appointing the undersigned stenographer and special examiner to take the testimony in said consolidated case, and in pursuance of the annexed notice to take said testimony served upon the defendants, or their attorneys, on the 14th of November, 1896, at the hour of ten o'clock at the office of the undersigned, William Herbert Smith, No. 416 Fifth street, in the city of Washington, District of Columbia, there appeared before me Mr. Joseph H. Call, special assistant United States attorney, and upon the application of said Joseph H. Call, and by consent of counsel heretofore given, it is ordered that the hearing in the matter of taking said testimony be adjourned to the Astor House, in the city of New York and State of New York, to be resumed at the hour of ten o'clock A. M. on Tuesday, the 17th day of November, A. D. 1896.

In the United States Circuit Court, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.

Consolidated Nos. 587, 675, 662.

Deposition of Charles E. Satterlee.

New York City, New York, November 17, 1896,
10 o'clock A. M.

Met pursuant to adjournment in the city of New York and State of New York, at the Astor House, when were present Joseph H. Call, special assistant United States attorney, on behalf of the United States, and Lewis E. Payson, on behalf of the defendants.

Whereupon, the taking of testimony in the above-entitled cause was adjourned until 11 o'clock A. M. on the same day, at the office of Charles E. Satterlee, in the Western Union Telegraph Company Building, city of New York and State of New York.

New York City, New York, November 17, 1896,
11 o'clock A. M.

Met pursuant to the foregoing adjournment at the office of Charles E. Satterlee in the Western Union Telegraph Company Building, in the city of New York and State of

New York; whereupon the taking of testimony in the above-entitled cause on behalf of the complainants was proceeded with, in pursuance of the annexed commission and notice, and by consent of the parties, before Wm. Herbert Smith, special examiner and stenographer; when were present Joseph H. Call, special assistant United States attorney for the United States, and Lewis E. Payson, for the defendants.

Whereupon CHARLES E. SATTERLEE, a witness of lawful age, called by and on behalf of the complainants, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, deposes as follows:

(By Mr. CALL.)

Q. 1. What is your full name?

A. Charles E. Satterlee.

Q. 2. You are the secretary of the Texas & Pacific Railway Company?

A. Yes, sir.

(It is agreed by and between counsel for the respective parties that the witness, Charles E. Satterlee, is the same witness by that name whose testimony has already been taken in this cause on behalf of the defendants.)

Q. 3. When your testimony was previously taken you produced a printed report, made by Gen. Dodge, the chief engineer of the company, and certain parts of it were offered in evidence by the defendants. Do you remember that?

A. I think I produced several written reports; but so far as the printed pamphlet or printed report is con-

cerned, I am under the impression that the bound volume of the report was produced by Gen. Dodge in his testimony.

Q. 4. You remember that there was produced, upon your examination, a printed report, and that a part of it was offered in evidence?

A. Yes, sir; a printed report from the chief engineer.

Q. 5. Can you now produce that report?

A. I presume so. It is among my records.

Q. 6. Have you not got the printed report here?

A. I have these books, and all of the various archives of the company here; and I suppose that after giving that testimony, I put everything away, so as not to be troubled with it.

Q. 7. Can you produce the printed report which Mr. Payson used in evidence on behalf of the defendants in your former examination?

A. I can produce a report; but whether it is that identical one or not, I do not pretend to say.

Q. 8. I will ask you to produce it.

A. I have one here. I produce one which I think was produced there, and which I obtained from Gen. Dodge afterward. (The witness produces the printed report.)

Q. 9. Have you any other copy of that printed report which you now have in your hands?

A. Not in this form. I may possibly have it in pamphlet.

Q. 10. From the same print?

A. Possibly, in pamphlet. You see, I have to rely upon my clerks in this matter.

Q. 11. You cannot find any other copy of that report?

A. I have here a report endorsed, "Report of Gen. G. M. Dodge, March 12, 1873."

Q. 12. You have there a written report of Gen. Dodge, made in 1873 to your company?

A. I have here a copy of it.

(By Mr. PAYSON.)

Q. Or what purports to be a copy?

A. What purports to be a copy of a report by Gen. G. M. Dodge of March 12, 1873, upon "The Surveys from San Diego, with a view of determining route for adoption." You see, it is not signed by him. It is a copy.

(By Mr. CALL.)

Q. 13. Have you any other copy of the printed report of 1874 than the one before you?

A. So far as my knowledge goes, I have not. As far as I remember, that copy was used in the testimony, and I afterward retained it in my possession, with the consent of Gen. Dodge.

Q. 14. How long have you been secretary of the Texas & Pacific Railway Company?

A. Since the year 1875.

Q. 15. Have you, as secretary, the records and archives of the company in your possession?

A. Yes, sir.

Q. 16. Have you any of the maps showing the routes and lines of the Texas & Pacific Railway Company, or any of them, referred to in the report of Gen. Dodge of 1874?

A. I do not think I have; but I will have to read the report, and then make a search, in order to find that out.

Q. 17. Gen. Dodge refers in this printed report to accompanying profiles and maps of the line of the Texas & Pacific Railway between the Colorado river and San Diego, by way of San Gorgonio Pass. Have you any of those maps?

A. I think not; but I cannot say positively.

Q. 18. I will thank you to examine your records and papers and see if you have any such maps or profiles in your possession?

A. The ones referred to in this report?

Q. 19. Yes. You now produce a written report of Gen. G. M. Dodge, chief engineer of the company, being his annual report, made May 10, 1873?

(By Mr. PAYSON.)

Q. State whether that is the original, or purports to be a copy.

A. This is a copy. It is signed: "Gen. G. M. Dodge, chief engineer."

(By Mr. CALL.)

Q. 20. Have you the original of that report?

A. No, sir. At the head of this report you will see: "California and Texas Railway Construction Company. Office of the chief engineer, Marshall, Texas, May 10th, 1873." It is addressed to Col. Thomas A. Scott, president Texas & Pacific Railway Company—I give you this as a piece of information; at that time the California and Texas Railway Construction Company were building the Texas & Pacific under contract, in the same way that the

Union Pacific was built. Gen. Dodge was conducting that construction for the California and Texas Railway Construction Company, and was also, either at that time or afterward, made chief engineer of the Texas & Pacific Raiway Company. Of course many of the details as to the construction were among the archives of that company. Where they are now, I do not know, nor do I know whether they exist at all. That company was wound up and reduced to a simple charter, and nothing more.

(By Mr. PAYSON.)

Q. As a preliminary question, let me ask you to state whether the paper which you hold in your hand, and which you say purports to be a copy of a written report of Gen. Dodge, is or purports to be a report from Gen. Dodge, as an officer of the California and Texas Construction Company to the Texas & Pacific Company.

A. It so appears upon its face.

Mr. PAYSON.—Counsel for the defendants objects to this paper, for two reasons: First, because it only purports to be a copy of a document; and secondly, for the reason that it is a report from an officer of another and different corporation than the Texas & Pacific Company, and is with reference to the affairs of the Construction Company, as testified by the witness.

(By Mr. CALL.)

Q. 21. Gen. Dodge also represented the construction company?

A. Yes, sir; that is, as its chief engineer.

Q. 22. And also was chief engineer of the Texas & Pacific Railway Company?

A. That is a matter covered in the previous testimony, I believe. To answer that question, I would have to look back at the record, and ascertain when he was elected chief engineer. Presumably he was; but I will have to refer to the record to answer the question positively.

Q. 23. There was some road constructed in California by the Texas and Pacific Company under that contract, was there not? A. Under what contract?

Q. 24. Through the construction company?

A. No, sir; there was no road constructed in California. There was a survey made, but no road constructed.

Q. 25. There was grading done?

A. Not to my knowledge.

Q. 26. There was ten miles of road graded, was there not? A. I do not know anything about that.

Mr. CALL.—I now offer in evidence, from the document produced by the witness, the following portions:

The endorsement on the back, as follows:

"Annual Report of Gen. G. M. Dodge, Chief Engineer, May 10, 1873.

California & Texas Ry. C. Co.,

Office of Chief Engineer,

Marshall, Texas, May 10, 1873,

Col. Thomas A. Scott, President T. & P. Ry. Co.

Dear Sir: .....(Page 1.)

I submit herewith a preliminary statement setting forth briefly the condition of affairs upon the line from Shreveport to San Diego. . . . .

(Page 17.) The California Division extends from the Pimas villages to San Diego, following the Gila river to Fort Yuma, cutting off the great bend of the Gila, by a direct natural route wth easy grades and light work; thence by the adopted line from Fort Yuma, crosses the desert along the eastern base of Sierra Nevada through the San Gorgonio Pass, across San Jacinto plain to Temecula, striking the ocean at the mouth of Rio San Louis; thence down the coast to San Diego.

It is possible that examinations may make it desirable to cross the Gila just below the great bend pass, to the north of that river, on a direct line to and crossing the Colorado river about thirty miles north of Fort Yuma, connecting with the adopted line about latitude 33 degrees.

The different surveys made by Mr. Evans crossing the Sierra Nevada range, which are fully set forth in the preliminary report hereto attached, demonstrate that this line, in an engineering and commercial point of view, is far superior to any other. It crosses the Sierra Nevada, the great obstacle heretofore considered as rendering the southern line to the Pacific, if not impracticable, at least, very costly, with a maximum grade of 105 feet, with an average work on the entire division not much heavier than that encountered in Texas or New Mexico. The estimates for this division make the cost of a fully equipped road at less than $30,000 per mile. There is no other line crossing these mountains either to the north or south of us, nor can there be any other obtained, that will compare with it in grades, curvature,

or cost. In fact, it is one hundred per cent better than any of the lines now built or projected over these mountains. It increases the distance over the direct line to San Diego about sixty-nine miles, but decreases the distance to San Francisco over the direct line about one hundred miles. . . . .

I am, respectfully,

Your obedient servant,

(Signed) G. M. DODGE,

Chief Engr."

(By Mr. CALL.)

Q. 27. You say, Mr. Satterlee, that you have not among your archives the original of that report?

A. This may be a copy of it. (Producing a paper.) You will have to compare it to see whether or not it is a copy. My clerk has just brought it to me.

Q. 28. Is the document which you produce an original or a copy?

A. It appears to bear the original signature of Gen. G. M. Dodge.

Q. 29. You are acquainted with his signature?

A. Tolerably well.

Mr. CALL.—I now offer in evidence, without repeating it, the same parts of the original which I have already offered from the copy.

Q. 30. You have produced here a document entitled on the back: "Report of Gen. G. M. Dodge, March 12, 1873, upon surveys from San Diego, with a view of determining the route for adoption." Is that an original or a copy of an original report?

A. That is a copy.

Q. 31. Have you got the original of that report?

A. Not to my knowledge.

Q. 32. You have looked through your papers to see whether or not you have got the original of that report?

A. I have not personally looked through them, but my clerk has looked through them.

Q. 33. You are satisfied that you have not got it?

A. I am quite satisfied that I have not.

(By Mr. PAYSON.)

Q. You have no personal knowledge as to whether this paper is a copy of any other paper or not; you simply know that it is not an original?

A. Yes, sir.

Q. That is as far as you go? A. That is all.

(By Mr. CALL.)

Q. 34. But you find it among the papers and records of the company?

A. I find it in the archives of the company.

Mr. PAYSON.—I object to the paper, because no sufficient foundation has been laid for the introduction of this copy in lieu of the original.

Mr. CALL.—I offer in evidence from the document referred to, endorsed upon the back, "Report of Gen. Dodge, March 12, 1873, upon the surveys from San Diego, with a view of determining the route for adoption," as follows (p. 1):

"Office of the Chief Engineer,

Marshall, Texas, March 12, 1873.

Hon. Thomas A. Scott, President.

Dear Sir: I have the honor to submit a preliminary report upon the surveys on the California Division between San Diego and Colorado river, with a view of determining the route for adoption over that division. The full report of all the surveys, with maps, profiles, etc., will be made up by Mr. Evans hereafter, but from data forwarded to me by him I am able to place before the board sufficient information for them to determine upon the general route from San Diego east.

The lines examined are as follows:

The direct line from San Diego to Ft. Yuma, known as the Otay valley line, 203.11 miles long.

The San Gorgonio Pass lines, numbered 1 to 4, marked main line and A, B, C, D, on maps.

No. 1. Main line, 313 miles long.

No. 2. The coast line via Temecula creek, to the main line, thence by main line to the pass, 308.73 miles.

No. 3. The coast line to Temecula; thence the main line to La Laguna, thence up the San Jacinto river to San Bernardino, 302 miles.

No. 4. The coast line, thence Temecula creek, thence line "D," direct to San Gorgonio Pass, 270 miles. . . . .

(Page 4.)

No. 4. The next line, known as the coast line, and numbered 4, follows the coast from San Diego to the mouth of Temecula creek, thence up Temecula creek to

Temecula, thence by line "D" direct to San Gorgonio Pass.

This line is the shortest of the San Gorgonio Pass lines, and, as I calculate, the cost is the cheapest, though Mr. Evans makes the construction of it proper cost a little more than line 3.

This line is the proper line to adopt from San Diego to Temecula, provided the San Gorgonio Pass route is taken. From Temecula to the San Gorgonio Pass, we have examined four lines, and the examination reduces us to the choice of the two. . . . .

(Page 18.)

I would therefore recommend to the company that, for the present, they determine between the two general routes, the direct line and the San Gorgonio Pass line; if the San Gorgonio Pass line is determined, we can locate that line up the coast to Temecula, and for the present the decision of the line between Temecula and San Gorgonio Pass be postponed, and hereafter decided, as matters may develop in California.

* * * * * * * * * * *

I have instructed my engineers to commence location upon this line, awaiting the decision of the company, but with a full understanding that it is not under any circumstances to be considered the adopted line. If the company does not desire to make known their determination in this matter for the present, I will locate it to Temecula, and wait for further instructions. If no instructions are given me, I shall consider that my instructions to the engineers meet the approval of the board.

I enclose herewith tracing showing the San Gorgonio Pass lines; also a map showing all the lines.

I am, Vy resp.,

G. M. DODGE,

Chief Engr."

Mr. PAYSON.—All of these extracts from the paper purporting to be a copy of a report are objected to by the defendants for the reasons above stated.

(By Mr. CALL.)

Q. 35. Do you find another copy of the printed report of Gen. Dodge of 1874? A. No, sir.

Q. 36. Have you an extra copy of any of these reports in pamphlet?

A. Perhaps I have; but they are precious now, and we have none whatever to spare. I have repeated inquiries for them, and have to refuse them in every instance. I have had them bound in this way just to preserve them. I have had them bound in this way just to preserve them. Of course I have an abundance of the later ones, during the last few years.

Mr. CALL.—I offer in evidence from the fourth annual report of the board of directors of the Texas & Pacific Railway Company to the stockholders, August 10, 1875, on page 30, as follows:

"The following tables will show the general elevation above the sea from the Red river to San Diego, and also the gradients, ascending and descending, and comparative with the Union and Central Pacific line, from which it will be seen that the extreme elevation upon the line

is 5,027 feet, against 8,235 feet upon the Union Pacific, and 6,988 upon the Central Pacific road; the total ascent being but 38,245 feet, against 54,812 feet on the line of the Union and Central Pacific. The natural result of this lower altitude is that your line is free from obstruction by snow at all seasons of the year, and forms a natural highway across the continent—the shortest that can be constructed in United States territory between the two oceans.

Table of Elevations.

	Above Tide Water.
Shreveport	204 feet
Tucson	1,898 feet
Pima villages	1,193 feet
Fort Yuma	145 feet
Divide between Gila and Colorado desert	437 feet
Salt Lake dry in Colorado—below tide water	290 feet
Cabazon Valley	998 feet
San Gorgonio Pass	2,621 feet
San Marguerita branch	104 feet
San Diego on the Pacific	
Total distance from Marshall, Texas, to San Diego, California	1,636 miles

Signed (p. 37) by order of the board of directors.

THOMAS A. SCOTT,

President.

Philadelphia, August , 1875."

Mr. CALL.—I also offer in evidence the tables of grades referred to on pages 32, 33 and 34 of the said report of 1875, and I reques the special examiner to make copies thereof, and to compare the extracts that have been offered with the originals.

(The said tables are in the words and figures following):

TABLE OF GRADES Texas and Pacific Railway

West of Fort Worth.				Miles	Miles ascending West. Grade per mile in feet. 0 to 20	20 to 40	40 to 60	60 to 66	66 to 80	80 to 100	100 to 105	Level
Mile	1	to	100	100	3.56	15.36	13.79	9.80				26.28
"	100	"	200	100	16.51	13.48	10.38	12.99				25.40
"	200	"	300	100	11.27	15.92	10.54	10.15	3.22	1.14		16.09
"	300	"	400	100	24.15	11.87	6.08	0.38	.38			12.76
"	400	"	500	100	18.19	26.57	9.39	1.34	1.34	3.46		9.51
"	500	"	600	100	6.78	22.45	10.20	5.02		2.18		17.05
"	600	"	700	100	28.92	15.58	5.65	5.40		.61		16.06
"	700	"	800	100	20.16	10.76	7.18					15.86
"	800	"	900	100	6.83	10.07	17.78	2.53	5.55			7.82
"	900	"	1000	100	3.32	0.72	0.38		.38			8.17
"	1000	"	1100	100	11.27	9.02	3.13					17.25
"	1100	"	1187.29	87.29	4.42	1.36	2.20					27.01
"	1187.29	"	1457.64	270.34	68.26	32.27	10.20		7.73	3.96	9.83	41.02
			Total West of Fort Worth	1457.63	218.59	185.43	106.90	47.61	18.60	11.35	9.83	239.84
	East of Fort Worth											
Shreveport	to	State Line		19.37	1.12	2.29	4.34	.28	.27			4.62
State Line	to	Longview		44.18	1.48	3.26	5.32	2.35	4.22	.82		8.86
Longview	to	Dallas		124.50	6.64	12.97	12.92	18.23	.50			27.34
Dallas	to	Fort Worth		30.81	.95	3.27	2.73	5.77				9.12
Marshall	to	Junction		69.04	4.60	4.33	5.13	1.80	13.44			10.47
Texarkana	to	Paris		90.98	12.11	8.99	11.04	12.48				12.02
Paris	to	Fort Worth		145.13	8.21	11.36	10.69	27.38				28.11
			Total East of Fort Worth	524.01	35.01	46.47	52.17	68.29	18.43	0.82		100.54
			Total Line	1,981.64	253.60	231.90	159.07	115.90	37.03	12.17	9.83	340.38

TABLE OF GRADES. Texas and Pacific Railway,- continued.

West of Fort Worth	Miles	miles descending West. Grade per mile in feet							Ascent feet	Descent feet	Longest Maximum grade		Longest Maximum Grade Stations		
		0 to 20	20 to 40	40 to 60	60 to 66	66 to 80	80 to 100	100 to 105			Ascending	Descending	Ascending	Descending	
Mile- 1 to 100.	100.	4.18	8.25	15.63	3.17	----	---	---	1,715.94	1,286.00	66.00	66.00	39	40	
" 100 to 200.	100.	.80	6.55	8.36	10.53	----	---	---	1,901.52	1,469.90	66.00	66.00	151	130	
" 200 to 300.	100.	11.25	7.14	7.78	5.50	----	---	---	2,161.35	1,351.18	79.00	66.00	14	88	
" 300 to 400.	100.	26.49	14.13	2.19	1.62	.95	---	---	947.18	1,065.24	80.00	80.00	20	50	
" 400 to 500.	100.	7.21	10.66	8.53	1.14	95	0.95	.76	2,126.80	1,091.00	96.00	110.00	70	40	
" 500 to 600.	100.	8.05	12.51	4.98	1.68	4.22	4.81	---	1,634.57	1,655.50	95.00	95.00	78	80	
" 600 to 700.	100.	12.88	12.78	1.41	.18	.53	----	---	1,386.18	483.95	79.00	79.00	32	11	
" 700 to 800.	100.	13.91	11.44	15.84	1.26	4.09	----	---	870.76	1,586.86	60.00	80.00	80	56	
" 800 to 900.	100.	5.43	9.29	17.07	12.26	5.37	----	---	2,005.77	2,531.06	80.00	80.00	24	69	
" 900 to 1000.	100.	54.67	17.85	11.93	2.21	.36	----	---	384.66	1,957.22	80.00	80.00	30	130	
" 1000 to 1100.	100.	36.82	3.92	15.28	2.22	1.14	----	---	531.00	1,371.96	52.80	80.00	25	60	
" 1100 to 1187.29	87.29	46.49	3.96	1.28	.....	.....	.57	---	164.32	455.41	52.80	80.00	54	30	
" 1187.29 " 1457.64	270.34	43.65	20.30	13.85	.....	.....	8.31	6.34	3,995.90	4,138.70	5.00	105.00	----	----	
Total West of Fort Worth	1457.63	270.80	138.78	119.13	51.39	17.61	14.64	7.10	19,825.95	20443.98	------	------	--------	--------	
East of Fort Worth													Curvature	Curvature miles	Tangent miles
Shreveport to State Line	19.37	0.51	3.12	1.74	1.01	....	0.17	---	271.00	336.00	80	92			
State Line to Longview	44.18	1.15	4.83	7.15	0.50	2.88	1.36	----	981.22	903.94	94	100	137°16'	2.96	16.41
Longview to Dallas	124.50	6.86	9.28	10.11	19.14	0.51	....	....	2,257.45	2,165.45	80	80			
Dallas to Fort Worth	30.81	2.22	0.15	0.63	5.9;	....	....	....	617.50	443.50	66	66			
Marshall to Junction	69.04	4.88	4.45	4.95	1.33	13.66	....	....	1,515.40	1,523.20	80	80			
Texarkana to Paris	90.98	6.79	6.90	11.28	9.37	....	....	....	1,760.00	1,470.00	66	66			
Paris to Fort Worth	145.13	11.25	8.24	17.08	22.86	....	....	....	2,766.22	2,724.39	66	66			
Total East of Fort Worth	524.01	83.66	36.97	52.89	60.18	17.05	1.53	7.10	10,168.79	9.566.48	----	----	----	----	----
Total Line	1981.64	304.49	175.75	172.02	111.57	34.66	16.17	-----	29.994.74	30,010.46	----	----	----	----	----

COMPARISON. -- Union and Central Pacific, and Texas and Pacific Grades.

Union and Central Pacific	Miles	Texas and Pacific	miles	Difference in favor of Texas and Pacific Railway	miles
Between 66 @ 90 feet per mile	199.95	Between 66 @ 90 feet per mile	120.82	Between 66 @ 90 feet per mile	79.13
" 90 @ 105 " "	29.45	" 90 @ 105 " "	7.10	" 90 @ 105 " "	22.35
" 105 @ 116 " "	29.45	" 105 @ 116 " "		" 105 @ 116 " "	29.45

ELEVATIONS OF SUMMITS

Union and Central Pacific		Texas and Pacific		Difference in favor of Texas and Pacific Railway.
Summits	Feet	Summits	Feet	Feet
Evans' Pass, Summit of Rocky Mountains,	8235	Hurds' Pass. Guadeloupe Mountains	4419	3816
Dodges' Summit, Divide of Continent.	7100	Divide of Continent.	4893	2207
Rim of Basin, Wasatch Mountains	7546	Nugents' Pass	4709	2837
Salt Lake Basin	4200			
Promontory	4961			
Pegem's Pass.	6180			
Trana Pass	6100			
Donner Pass, Sierra Nevada Mountains	6988	San Gorgonio Pass, Sierra Nevada Mountains	2621	4867

DISTANCES

Route.	From	To	R. R. Line	Air Line	Distance Lost
Union and Central Pacific	San Francisco.	Omaha	1907 miles	1380 Miles	527 Miles
Texas and Pacific	Shreveport	San Francisco	2039 "	1650 "	489 "
" "	"	San Diego	1676 "	1325 "	351 "

I also offer in evidence from the printed report, entitled "Texas and Pacific Railway Company, Report of Gen. G. M. Dodge, Chief Engineer, 1874," the title and pages 3 to 12, inclusive, down to the words "in addition to the main line from Shreveport to San Diego," as follows:

TEXAS AND PACIFIC RAILWAY COMPANY.

Report

of

Gen. G. M. Dodge,

Chief Engineer.

1874.

New York.

Geo. W. Wheat, Fine Mercantile Printer,

109 Nassau Street,

1880.

(Printed page 3.)

Report

of

Gen. G. M. Dodge,
Chief Engineer,
Texas and Pacific Railway Company.

Chief Engineer's Office,
Marshall, Texas, May, 1874.

Col. Thomas A. Scott, President Texas and Pacific Railway.

Sir: The charter of the Texas and Pacific Railway Company, as granted by the United States, provides for the construction of a continuous railroad and telegraph line from Shreveport, Louisiana, by Marshall, Harrison county, Texas; thence by the most direct and eligible route to be determined by the company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona to a point on the Rio Colorado, at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to Ship's Channel, in the State of California, pursuing in the location thereof, as near as may be practicable, the thirty-second parallel of north latitude.

(Printed page 4.)

This charter also provides for the construction of a railroad from Fort Yuma to San Francisco, not limiting us from taking the most economical advantages of the topography of the country in leaving our main line.

It requires that one hundred miles each year shall be completed from its eastern terminus, and ten miles from its western terminus by May, 1874, and after that twenty-five miles per year from its western terminus, until the two lines meet. The rate at which the line is to built from its eastern end is materially modified by its charter in Texas, which is more fully explained in a subsequent part of this report.

As far as possible, we consider the question connected with the construction of the road, as follows:

First.—Location of lines.

Second.—Connections.

Third.—Water supply.

Fourth.—Timber.

Fifth.—Fuel.

Sixth.—Ballast.

Seventh.—Building stone.

Eighth.—Agricultural resources.

Ninth.—Mineral resources.

Tenth.—Land and town lots.

Eleventh.—Earnings.

Twelfth.—Commercial and military value.

You will also find, in a condensed form, estimates of cost of construction and equipments; table of grades, summits and distances, and comparison with other transcontinental lines. Annexed will be found reports of engineers in charge of the different divisions, with copies of the instructions under which they acted:

Divisions.

For Surveys and Construction.—The whole line was divided into five divisions:

1. Construction East of Fort Worth.—In charge of Capt. R. S. Hayes.

2. Brazos division. From Fort Worth to a point a little (printed page 5) west of the one hundredth meridian and south of Double mountain. In charge of Messrs. Hodges, Wilson and O'Neill.

3. The Pecos division.—From the Brazos division to Fort Bliss, or El Paso, on the Rio Grande, in charge, first, of Mr. E. D. Muhlenburg, and finally in charge of Maj. M. F. Hurd.

4. New Mexico division.—From the Rio Grande to the Pima villages, on the Rio Gila, in charge of Mr. George Wolcott.

5. California division. From the Pima villages to San Diego, California, in charge of Mr. J. A. Evans.

Extent of Surveys.

To develop the country in detail on or in the vicinity of the thirty-second parallel of latitude, a belt of country 200 miles wide and 1900 miles long was thoroughly explored, 10,000 miles of instrumental line run, and 15,000 miles of reconnoissance made, from July 1st, 1872, to January 1st, 1874, at a cost of $500,000.

For the detailed information as to the line, I refer you to the report attached hereto.

Road in Texas.

In the State of Texas, three divisions of the Texas and Pacific Railway have been placed under construction:

1. Southern division, Shreveport to Fort Worth, 219 miles.

2. Transcontinental division, Texarkana to Fort Worth, 236 miles.

3. Jefferson division, Marshall to Texarkana, 69 miles.

Texas Charter.

The charter granted by the State of Texas requires the completion of the road:

1. From Marshall to Texarkana, its junction with the St. Louis, Iron mountain and Southern Railway, by January 1st, 1874.

(Printed page 6.)

2. From Texarkana to Sherman, Transcontinental division, and from Longview to Fort Worth, on Southern division, by July 1st, 1874.

3. From Sherman to Fort Worth, Transcontinental division, by January 1st, 1875.

In July, 1872, when the present company entered upon the work, the road was in operation from Shreveport to Longview, a distance of 66 miles.

The company not only intended to build a railroad to the Pacific, developing the country adjacent to the thirty-second parallel of latitude, but to construct its eastern divisions—that is, two lines diverging from Fort Worth to the east. It would connect the Pacific coast and the territories through which the line passed with the manufacturing and commercial centers of the north, east and south, by the shortest, most direct and practicable route.

By them we reached St. Louis from Fort Worth, via the Transcontinental division and the St. Louis, Iron mountain and Southern Railway, in 745 miles; Chicago by same route, to Poplar Bluff; thence by Cairo and Illinois Central Railroad, in 998½ miles. To New York, via Sherman, Texarkana, Little Rock, Memphis, Louisville, Cincinnati, and Pittsburgh, 1756 miles, or to New York via Shreveport and North Louisiana Railway to Vicksburg, and thence by Central Southern lines to New York, 1653 miles. By same route to Richmond, Virginia, 1386 miles,

and to Washington, D. C., 1468 miles. To Galveston by Dallas and the Texas Central Railroad, 345 miles, or via Minneola and the Great Northern Railroad, 399 miles, and to New Orleans, by Shreveport and Red river, or via Shreveport, Vicksburg and Mississippi river, or via contemplated route through Louisiana, Marshall, Donaldsonville and Vermillion.

The Jefferson division, from Marshall to Texarkana, with its connections, also gives a direct route from Galveston, Houston, San Antonio, Austin and southeastern Texas, via the International and Great Northern, to the north and northwest, distance from Galveston to St. Louis, 875 miles.

In addition to these advantages, the three divisions, forming the three sides of a triangle, with its least angle at Fort Worth, develops the richest and best settled portions of north Texas, a country heretofore without transportation facilities, but (printed page 7) abounding in everything required for a numerous and wealthy population.

Construction.

The original charter from the State of Texas required that we should complete the whole road to Fort Worth by January 1st, 1874, and the efforts upon the part of the company to comply with the charter, and complete over 500 miles of road within one year, required an enormous expenditure of money.

The three divisions east of Fort Worth, 525 miles, was estimated to cost $12,363,129, and was under charge of Capt. R. S. Hayes, as engineer in charge of construction,

Mr. J. M. Eddy, assistant superintendent, being in charge of transportation, supplies, and material.

The report of Capt. Hayes is herewith submitted, giving full details of the work from August, 1872, to February 1st, 1874.

Completed Road.

Southern division, Longview to Dallas, 124 miles.

Jefferson division, Marshall to Texarkana, 74 miles.

Transcontinental division, Sherman to Brookston, 58 miles.

256 miles have been completed and accepted by the State of Texas and by the United States as a first-class road, complying with all the requirements of the charter and laws of Texas, and with the acts of Congress.

107 miles additional have been graded, tied, and bridged, ready for the iron, and in addition to this, 66 miles of road have been partially rebuilt; ties, bridges, buildings, depots and tanks renewed, and the gauge changed from 5 feet 6 inches to 4 feet 8½ inches.

Over $9,000,000 have been disbursed in completing this work, without any loss to the company, and within the amount of the estimate first submitted, although they did not then contemplate the extraordinary outlays rendered necessary by the lack of navigation in Red river, or the delay of the completion of the connecting roads, the epizootic, and finally the yellow fever, which quarantined us for ninety days.

This large expenditure of money in so limited a time, forced upon us by the State legislature, rendered the undertaking a (printed page 8) difficult and serious one.

Up to the time of the financial panic, our organization and progress had assured us that we would be able to comply with the requirements of our charter.

Had we been in railroad communication with St. Louis and Galveston in the fall of 1872, as was promised, instead of the spring of 1873, or could we have relied upon the navigation of Red river, as we had a right to expect from the experience of former years, say from November, 1872, to March, 1873, our line would have been completed to Dallas and Sherman by January, 1874, and our construction well advanced from Dallas to Fort Worth. Notwithstanding these drawbacks, we built more railroad during the year than any other company in the United States.

The three divisions, as soon as completed, will earn at least $5,000 per mile per annum, and as the country fills up the earnings will gradually and permanently increase.

The eastern part of the State, through which the line runs, is heavily timbered with pine, oak, and cypress. The western portion is prairie. The local demand for lumber in the west, the return transportation of cattle, cotton, and grain east, and the passenger traffic over it in every direction, covering, as it does by its connections, the whole of the thickly settled portion of Texas, will give this part of the line, when completed and equipped, a very large, remunerative, and increasing trade. The completed road is a first-class, new railroad, substantial in all its parts, and fully equal to any of the roads of the western States.

The bridges, shops, water stations, and depot buildings

are ample and substantial, far exceeding its present wants. The equipment is new and from the best shops.

To complete it to Fort Worth, as required by law, it will be necessary to lay track, erect water stations and buildings on the graded, tied and bridged portion of the transcontinental division from Texarkana to Brookston, a distance of 94 miles, by July 1st, 1874, and the building of 27 miles of new line from Dallas to Fort Worth by July 1st, 1874; also the construction of the line from Sherman to Fort Worth by January 1st, 1875, distance 81 miles, and thereafter each year not less than 100 miles on the Texas end, and 25 miles on the California end of the line each year until completed across the continent.

(Printed page 9.)

There is now before the legislature of Texas a bill granting all roads one year's extension of time. Should it pass, it will add an additional year to the time above stated.

In the fall of 1873, in accordance with the law of the United States, work was commenced at San Diego, California, under the supervision of Mr. James A. Evans, division engineer, ten miles of work was let; at this time the grading, bridging, and tieing is nearly completed. This work is still progressing, and we hope within the next ninety days to have it ironed and equipped.

Nearly all of our arrangements, right of way matters, real estate, etc., at San Diego, have been satisfactorily settled, and work should be commenced as soon as practicable in the tunnel upon the next section of 35 miles. To work this tunnel economically, we should have at least twelve months in which to complete it.

Description of Adopted Line.

The Texas and Pacific Railway will extend from Shreveport, Louisiana, on Red river, to San Diego, California, with a branch from Marshall, Texas, to Texarkana, there connecting with the St. Louis, Iron mountain and Southern Railway, and from Texarkana through Paris and Sherman, connecting with the main line at Fort Worth.

Over this route the surveys have determined that in an engineering and commercial point of view, the line to be adopted is as follows:

Leaving Shreveport, the road runs almost due west through Caddo Parish, Louisiana, and through the counties of Harrison, Gregg, Upshur, Wood, Smith, Van Zandt, Kauffman, Dallas and Tarrant, in Texas, passing through the towns of Marshall, Hallville, Longview, Willow Springs, Glade Water, Hawkins, Minneola, Grand Saline, Willis Point, Elmo, Terrell, Forney, Mesquite and Dallas, to Fort Worth, at the junction of the West and Clear forks of Trinity river, in Tarrant county.

This line crosses the divide between Red river and Sabine river, and runs up the valley of the Sabine, crossing it in Van Zandt county, crossing the Trinity river at Dallas, following the west fork of the Trinity to Fort Worth, distance 219 miles.

(Printed page 10.)

Fort Worth to San Diego. Commencing at Fort Worth, the line follows the valley of the Clear fork of the Trinity in a southwesterly direction to the mouth of South fork, and up the valley of South fork to its head; passing

through Weatherford, the county seat of Parker county, and thence northwest, crossing the headwaters of numerous tributaries of the Brazos, passing into Palo Pinto county about four miles from the northeast corner. It then turns a little south of west and crosses the Brazos river near the mouth of Cedar creek, and follows up the valley of Veal's creek, and across the divide into the valley of the Clear fork of the Brazos, and then following the general course of the Clear fork to the southeast extremity of the big bend of the Clear fork, about four miles southeast of Fort Griffin; thence following up the valley of Trout creek to its head and down one of the tributaries of Clear fork, it crosses Clear fork about four miles south of the north line of Shackleford county; thence almost due west, crossing California creek on the west line of the same county, and following its valley to its head, and thence in a direct line southwest, on the divide between the waters of Clear and Double mountain forks of the Brazos to a point 18 miles south of the Double mountains, a distance of 210 miles.

From this point the line runs a little south of west, crossing the headwaters of the North fork of the Colorado, and between Muchaque and Solitaire mountains to Sulphur Springs—latitude 33.30, longitude, 101.45 W. on the east border of the Staked Plains, a distance of 75 miles—thence southwest, crossing the Staked Plains to the Rio Pecos, crossing this river about 15 miles above the mouth of Toyah creek, and 54 miles below the mouth of Delaware creek, 119 miles; thence a little south of west in a very direct line to the newly-discovered pass in

the Guadaloupe mountains, known as Hurd's Pass—latitude 32.30, longitude, 104.30 W.—62 miles. This pass is about 40 miles southeast of the Guadaloupe Pass; thence northwest and parallel to the Guadaloupe range, 48 miles, to a point in Salt Lake Valley, 25 miles southwest of Guadaloupe Pass; thence almost due west, crossing the Heuca mountains, through a low pass to Fort Bliss, on the Rio Grande.

(Printed page 11.)

From there the line follows up the valley of the Rio Grande for a distance of 38 miles to near the town of Mesilla, then turning almost due west ascends to the tablelands of the Sierra Madre, which is reached in a distance of 6 miles, and on the same course, crossing the high rolling prairie of the Sierra Madre, it passes through the Florida Pass, between Fort Cummings and the Florida mountains, into the valley of the Miembres, crossing that river about 12 miles south of Ojo de Vaca (Cow Springs), and about 35 miles south of Fort Bayard, Silver City and the Lone mountain mining district.

We leave the Burro mountains on the north, the Pyramid range on the south, and passing near the Ralston silver mines we reach the valley of Playas, 125 miles west from the Rio Grande. After crossing this valley, we pass the Peloncillo, or Stein's Peak range, through a low gap about 6 miles south of Stein's Peak and the old Boundary Commission road. The line then crosses the San Simon valley in a direct course for Railroad pass, in the Chiricahin mountains, thence southwest across the valley of Payas de los Pimos, and across the Caliuro mountains

by way of Nugent's Pass, which is north of and about 10 miles from Dragoon Pass; thence to the valley of the San Pedro, near the settlement of Tres Alamos; thence south and up the San Pedro about 5 miles; thence west to the Cunega Pass, between the Whetstone mountains on the south and the Santa Catalina mountains on the north, and 20 miles north of Fort Buchanan summit, which is the highest point between the San Pedro and the Gila; thence northwest, down the valley of the Cunega and Rillito, to near the town of Tucson, following down the valley of Santa Cruz, keeping near the old stage route via the Point of Mountains to near Desert station. Then leaving the valley of Santa Cruz, and passing north of the Picacho mountain, we again strike the valley near Picacho station, and follow it about 20 miles; thence through a valley to the Gila near Sacaton, and about 60 miles below the mouth of the San Pedro, and down the valley of the Gila, 12 miles to the Pima villages, and following the Gila to its junction with the Colorado of the West at Fort Yuma, cutting off the great bend of the Gila by a direct natural route through St. Valentine's Pass. From there the line runs in a northwesterly direction, passing to the north of the sand (printed page 12) hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this the line passes on the north margin of the Salt Lake of the Colorado desert; leaving the mud volcanoes about 5 miles to the south, and the Dos Palmos stage station about the same distance to the

north, we reach the Cabazon Valley 113 miles from Fort Yuma; thence on nearly the same course, 50 miles to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2621 feet above tide water, and its small elevation must be considered remarkable as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto, which is known as the Potrero (or Pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains—these plains lie between the main range and the Santa Ana range—and down the Temecula Plains to the head of Temecula canyon, and down the canyon, where the Temecula breaks through the Santa Ana range 10 miles to the open valley, striking the coast near the Santa Marguerita ranches, about 40 miles north of San Diego; thence south and down the coast on the western slope of the Solidad mountains, crossing the Solidad, San Louis Rey, San Dieguite and the ravine of La Jolla, skirting False Bay; thence to the shore of San Diego bay, and along the shore of the bay to the depot grounds of the Texas and Pacific Railway below the Pacific Steamship Company's wharf.

Distance from Pima's Villages on the Gila river, 444.4 miles.

Fort Worth to San Diego.....1,457.64 miles.
Shreveport to San Diego.....1,676.64 miles.
Texarkana to San Diego .....1,693.63 miles.

I also offer in evidence the table of elevations, commencing with "Shreveport," on page 33, and ending with "San Diego," on page 34, as follows:

(Printed page 33.)

General Elevation (above the Sea) from Red river to San Diego, on the Line of the Texas and Pacific Railway.

	Feet above tide water.
Shreveport	204
Marshall	377
Jefferson (Jefferson branch)	226
Texarkana (Transcontinental branch)	287
Longview	342
Silver Lake	350
Divide between Sabine and Trinity rivers	529
(Printed page 34.) Dallas	481
Sherman (Transcontinental branch)	734
Fort Worth	629
Weatherford	1,000
Divide between Trinity and Brazos rivers	1,195
Valley of the Brazos	825
Staked Plains	2,850
Highest point on same	3,377
Valley of the Pecos	2,700
Hurd's Pass (Guadaloupe Mts.)	4,493
Valley west of Guadaloupe	3,640
Heuca Pass	5,027
El Paso (or Fort Bliss)	3,732
Table-land (Sierra Madre)	4,420 to 4,520

Summit of Continent	4,893
Peloncello Pass	4,339
San Simon Valley	3,562
Railroad Pass	4,388
Nugent's Pass	4,711
San Pedro river	3,429
Cunega station	4,088
Tucson	1,898
Pima villages	1,193
Fort Yuma	145
Divide between Gila and Colorado desert	437
Salt Lake (dry) in Colorado desert—below tide water	290
Cabazon Valley	998
San Gorgonio Pass	2,621
Santa Marguerita Ranches	104
San Diego (on the Pacific)	16
Tres Alamos	3,729

I also offer in evidence a portion of said report commencing on page 47 with the heading "Conclusion," and ending on page 49 before the words "land department," as follows:

(Printed page 47.)

Conclusion.

The Texas & Pacific Railway opens up to settlement a vast undeveloped agricultural and mineral region, now only unavailable from the want of the means of cheap and quick communication and transportation. It secures to the Government a lasting and permanent peace with the

hostile Indian tribes. It will bring us in direct communication with Mexico, and open up an extensive trade which has heretofore sought other countries. It is a line of even temperature—no snow, no extremes. It is the shortest railroad communication from sea to sea—1,460 miles from harbor to harbor, against 3,300 miles by any other line.

The Union Pacific is a Central Northern line, gives a great (printed page 48) advantage in trade, and access to northern cities, and is the great feeder of northern railroads.

The Texas & Pacific would become the feeder of the general system of railroads running through the south, and would bring into competition the two great systems of the continent, and bring all the means and advantages of the southern system to the development of the trade through the southern States and territories, and allow their roads to compete on equal terms for the trade of the Pacific coast and all other countries whose trade seeks its harbors.

It is the shortest way to Europe from Australia, India, China and Japan—the distance from San Diego to Nangasaki, Japan, 5,709 miles; San Diego to Shanghai, China, 6,264 miles; San Diego to Hong Kong, China, 6,850 miles; San Diego to Sydney, Australia, 15,900 miles.

To accommodate this trade, we have at San Diego a completely landlocked harbor, as safe as any in the world. Vessels drawing 26 feet of water can come alongside our wharves at all stages of weather. The channel of the harbor is 12½ miles long, and about half a mile

wide, the water varying in depth from 20 to 51 feet, giving ample room for a fleet of 1,000 first-class ships to ride at anchor. It is the shortest and most direct line across the continent, is of low grades and light curvatures, and passes all the great mountain ranges to the south, or overcomes them at light grades and low altitudes, below the snow limit. It develops a vast extent of country without any natural means of communication which can be reached in no other way. It settles the Indian question, as along its line is the only territory infested by hostile bands of Indians, and dispenses with a long line of frontier defenses, and will save to the Government at least five million dollars annually, as experience has proved that a railway line through Indian territory is a fortress as well as a highway.

* * * * * * * * * *

Upon my chiefs of divisions most of the work has devolved. They have carried out their instructions with alacrity, ability, and good judgment, and often under difficulties that would have deterred most men. They have all found a line over their respective divisions far superior to any that were supposed to exist. (Printed page 49.) Especially is this the case with the line over the Sierra Nevada mountains and the Guadaloupe range, and these were only determined after months of continued examination and reconnoissances.

Since July, 1872, the surveys have been extended from the Red river, in Texas, to the Pacific Ocean, in the general direction of the 32d parallel of latitude, exploring a country 200 miles in width, developing its resources,

bringing to light its hidden treasures, and fully demonstrating its capability for building and sustaining a railroad to the Pacific Ocean.

The country has been systematically developed. Explorations have been pushed to success, and one after another of the engineering obstacles supposed to exist to the building of the Southern Pacific Railway have been met and overcome; the route of the road has been definitely fixed, and unquestionably is the best to be had across the continent in the zone which has been explored. I desire to extend my thanks for the courtesies and aid extended to me at all times by the military under Generals Augur and Pope, and the officers and troops have cheerfully extended us all the aid and protection we desired.

I desire to call the attention of the company to the able and effectual manner in which Mr. R. S. Hayes, engineer in charge of construction, and Messrs. Evans, Wolcott, Hurd, O'Neill and Hodges, engineers in charge of surveys, and J. M. Eddy, assistant superintendent, and the heads of departments and subordinates have performed their duties and the fidelity with which they have executed their trusts."

I also offer in evidence, on page 51, the signature, as follows: "Respectfully submitted,

G. M. DODGE,
Chief Engineer."

I also offer in evidence from the printed report, the report beginning on page 109 with the words "San Diego, Cal., Feb. 3, 1873," and ending with the words "James A. Evans, Engr. Cal. Division," on page 146, as follows:

(Printed page 109.)

San Diego, Cal., Feb. 3, 1873.

Gen. G. M. Dodge, Chief Engineer.

Dear Sir: I herewith submit a report of engineering operations conducted under my charge on the California Division of the Texas & Pacific Railway. The examinations covered by this report extend over a space of six months, from August, 1872, to January, 1873, both inclusive. A single party was placed in the field in July, but the work was only fairly commenced in August, 1872. Since then the country between the bay of San Diego and the Colorado river has been fully examined; 700 miles of line have been actually run in such a way as to give an estimate of cost, much of which has been over a country where the progress was not more than half a mile per day. In addition to this, reconnoissances have been made, distances measured, and altitudes taken over 300 miles of additional country.

For the better understanding of the work, the several lines will be designated as follows:

Line A.—Otay Valley Line.

Line B.—San Gorgonio Pass Line No. 1, via the San Diego river, Murphy's canyon, Buena Vista, S. Louis Rey, Temecula, Temescal, Riverside and San Bernardino.

Line C.—San Gorgonio Pass Line No. 2, via the coast, Temecula, Temescal, Riverside and San Bernardino.

(Printed page 110.)

Line D.—San Gorgonio Pass Line No. 3, via the coast, Temecula, Santa Gertrude canyon, and the Potrero of San Jacinto.

Line E.—San Gorgonio Pass No. 4, via the coast, Temecula, the Laguna, San Jacinto Valley, Box Springs canyon, Riverside and San Bernardino.

Line F.—San Gorgonio Pass Line No. 5, via the coast, Temecula, San Jacinto Plains, Box Springs canyon, Riverside and San Bernardino.

Line A.—Otay Valley Line.

This line has its initial point within the corporate limits of the city of San Diego, and on land to be used as passenger depot grounds. Passing through a portion of the city, occupied to some extent, although not interfered with, by buildings, it cuts off an arm of the bay, thereby bringing the main line within easy access of the ship channel to lands now owned in fee by the company. So much of the line, whatever course may be taken in getting away from the bay, would be common. Leaving the lands of the Texas & Pacific Railway Company, the line crosses Chollas creek near its mouth, passes through the National rancho, along one of the streets of National City as surveyed, and with easy grades, good alignment, and light work reaches the high mesa land lying between the bay and the mountains.

The section of line above described has been put in with care, and, if adopted, no further location of it will be required. It was thought best to do this, so as to be able to form an idea of how far one line would interfere with property comparatively valuable, as well as to enable the city authorities of San Diego to commence negotiations for right of way.

The line in its progress from the mesa or table-land curves to the left, entering the valley of Otay creek, the drainage of which it follows to its summit.

For a distance of 27 miles from the initial point the line is as above described on the shore of the bay, on the table-land, and in the Otay Valley. The material is generally drift or alluvium; easy to move, with the single exception that at what is known as the bend of the Otay a tunnel of 1600 feet will be necessary, as well as an expensive crossing of the stream itself.

(Printed page 111.)

The material in the tunnel is a metamorphic rock, difficult to drill, and so shattered that a tunnel through the point would very likely require lining. The heavy work here is caused by a sharp projecting spur impossible to avoid by curvature.

At this point (27 miles from zero) the character of the line changes, from the necessity we are under of availing ourselves of the side slopes of the valley to overcome elevation beyond.

This may be considered the foot of the steep gradients of the western slope of the range. From here the line is on the broken slopes of the neighboring hills. On the 31st mile a tunnel 900 feet in length will be necessary, the material in which, being granite, can be removed at less cost than the tunnel before described. Unless it should prove so fragmentary as to require lining, it will not be difficult. Nothing but an examination of the profiles can give an adequate idea of the character of the work from where we leave the valley of the creek to the

summit of this drainage. The summit, when reached, is broad and flat, making it impracticable to lower it by cutting, and so reduce the gradient.

Otay summit is the watershed between the Otay drainage and that of the Tia Juana; the Ysidoro or Cottonwood branch of which, a short distance beyond Otay summit, crosses our direction nearly at right angles, making it impossible within the limit of economy to maintain our general course. The line, therefore, hugs the broken hillside bordering the San Ysidoro canyon on the west, a distance of 6 miles, maintaining a level grade, the fall of the canyon for the distance being over 100 feet per mile; crossing the gorge 130 feet above its bed to an equally broken slope on the eastern side of the canyon, upon which slope the line continues to the mouth of Bear canyon, a tributary gorge, the general direction of which is favorable.

The distance from the crossing of the San Ysidoro to the head of Bear canyon is twelve and two-tenths miles; difference in elevation 1,371 feet. The summit of Bear canyon is not suitable for deep cutting, being broad and flat. We are, therefore, from necessity, obliged to use a grade of 116 feet per mile for the entire distance.

The slopes east of the San Ysidoro and Bear canyons are very broken. The material is granite, either solid or in loose boulders (printed page 112)of great size. The profile gives a succession of deep cuttings and high embankments. The character of the work here would make the arriving at an estimate of quantities difficult. The specifications would always be doubtful; and measurement in some sort impracticable.

The summit of Bear canyon is secondary in character, dividing the drainage of the San Ysidoro from that of Melquaty creek, both tributaries of the Tia Juana; the latter drainage being carried into the San Ysidoro some 8 miles above the mouth by means of Tecate creek. From the summit of Bear canyon easterly, a level grade is used for a distance of 100 miles, while the line is kept on the slope of the hill bordering the Melquaty valley on the north.

Some actual distance might be saved on this section at a loss of elevation and depression, and by the use of heavy gradients. It is a question, however, if operating distance could be saved. Nothing but a location could determine this. If, however, the line has any claims to the adopted one, the attempt should be made.

From the end of this level grade gradients approximating the maximum of 116 feet are used to the head of this drainage at Walker's summit, the dividing ridge between waters flowing eastward to the desert, and those flowing westward to the bay of San Diego. This summit is in no sense a pass, but the crest of the watershed. Its altitude is 3,870 feet above mean low tide; distant from the initial point 81.62 miles.

From this summit to the desert via Carrisso canyon, the descent is continuous, the work from the summit eastward differing but little in character from that west of it, until the head of Carrisso canyon is reached. This canyon is a deep, narrow gorge, the direction of which is nearly north, and parallel with the canyon of the San Ysidoro, heretofore referred to, and from which it does

not differ materially in character, save that the rock on the slopes of the Carrisso is more broken up and fragmentary, the slope steeper, and the projecting spurs sharper and more numerous. The best line we can obtain down the canyon will require, in a distance of 10 miles, eleven tunnels, aggregating in distance 6,755 lineal feet.

(Printed page 113.)

The direction of the gorge of the Carrisso being, as stated, nearly north, the first available opportunity is taken of passing through the hills to the east of it by means of a tunnel 1600 feet in length, which carries the line of the desert slope, which the line follows with variable gradients, some of which are 105 feet per mile. A distance of 31 miles from the mouth of the tunnel last referred to brings the line to the level of the desert plain.

For one-third of the distance last-named, or say 10 miles, the line passes over a smooth slope covered with drift pebbles from the hills, having a substratum of clay, desert, and sterile. The course of the line eastward is over the depression of New river, in which basin or depression the grade line falls to 37 feet below our datum line of mean low rates in the bay of San Diego.

There can be no question but that much of the country passed over by this line, "especially where the soil is of a clayey character," could, by the application of water, be made highly productive.

Some of the country west of the New river basin is covered with a light layer of shifting sand, likely to give some, but no serious trouble in operating the road. The

mode of construction here would be that of having the roadbed in embankments some two feet above the natural surface, which plan would, from necessity, be pursued here, if no shifting sand made it desirable.

From the crossing of New river (which is nothing more than back water from the Colorado in time of freshets) to the sandhills, the character of the country does not differ materially from it, except that more of the ground is covered with a scattering growth of mesquite timber, well adapted for fuel; indeed, on no part of this line can this necessary material for operating the road be had so readily or with so little cost.

The total distance from San Diego to the sand hills of the desert is 178 miles. These sand hills, which are impossible to avoid by a direct line from the Carrisso canyon, seem to be an accumulation of drifting sand carried by the prevailing winds from the upper gravelly plain to the desert. They extend from northwest to southeast. Our line via San Gorgonio Pass (printed page 114) goes to the north and barely touches them. They extend across the Mexican boundary line, increasing in altitude and width of base as we follow them from north to south.

There are two ways of avoiding them altogether: First, by changing the direction of the line from where the level plain of the desert is reached, and connecting with the line from the San Gorgonio Pass; or second, by dropping below the boundary line between the United States and Mexico. The former would lengthen the distance from San Diego to Fort Yuma 18 miles; the latter

would not increase the distance materially, but would be in foreign territory for a distance of 8 miles.

Total distance from depot grounds at San Diego to crossing of Colorado river at Fort Yuma, 203.11 miles.

Table of Grades.

	Ascending Miles.	Descending Miles.
Between 0 feet per mile and 20 feet per mile	35.29	12.39
" 20 feet per mile and 40 feet per mile	14.21	8.28
" 40 feet per mile and 60 feet per mile	9.67	2.02
" 60 feet per mile and 80 feet per mile	6.36	13.32
" 80 feet per mile and 105 feet per mile	16.86	28.64

	Ascending Miles.	Descending Miles.
Maximum of 116 feet per mile	11.68	
Level grade		44.39
Distance ascending	94.07 miles.	
" descending	64.65 "	
" level grade	44.39 "	
Total distance	203.11 miles.	

Estimate of Cost—Section No. 1.

From Depot Grounds to Station 908+70, Foot of Grade in the Otay Valley.

Distance 26.8 miles.

541,464	C. yards earth excavation at	$ 32	$173,683 12
53,000	" " loose rock " "	1 00	53,000 00
53,000	" " solid " " "	2 25	119,250 00
17,500	" " tunneling at	14 00	245,000 00
525	" " second-class masonry at	10 00	5,250 00
995,747	feet, B. M., timber in trestles, at	50 00	49,787 35
28,070	pounds of wrought-iron bolts at	10	2,807 00
19,746	pounds of cast-iron washers at	8	1,579 68
26.8	miles superstructure—including iron, ties, laying, &c., at	13,000 00	348,400 00
40,284	lin. feet piling	50	20,142 00

26.8 miles at $38,205.00 per mile, $1,023,899.15.

Section No. 2.

From Station 908+70, Foot of Heavy Grade, to Station 4,300, in the Carriso Canyon.

Distance 81.57 Miles.

2,970,736	C. yards earth excavation at	$ 30	$ 891,220 80
943,320	C. yards loose rock excavation at	1 00	943,320 00
1,907,903	C. yards solid rock excavation at	2 00	3,815,806 00
220,000	C. yards solid rock excavation at	1 75	385,000 00
116,741	C. yards tunneling at	12 00	1,400,892 00
6,156	C. yards first-class masonry, at	20 00	123,120 00
21,830	C. yards second-class masonry, at	12 00	261,960 00
600	lin. feet of truss bridging at	38 00	22,800 00
7,055,967	feet, B. M., timber in trestles, at	50 00	352,798 35
111,892	pounds wrought-iron bolts at	10	11,189 20
154,012	pounds cast-iron washers at	8	12,320 96
81.51	miles superstructure—iron, ties, track-laying, &c., at	13,000 00	1,060,410 00

81.57 miles at $113,777.00 per mile, $9,280,837.31.

Section No. 3.

From Station 4,300 in Carriso Canyon to Station 5,300 on the Desert.

Distance, 18.94 Miles.

1,339,850	C. yards earth excavation at	$	28	$375,158 00
96,073	C. yards loose rock excavation at		1 00	96,073 00
692	C. yards first-class masonry at		20 00	13,840 00
5,092	C. yards second-class masonry at		12 00	61,104 00
962,228	feet, B. M., timber in trestles, at		50 00	48,111 40
18,106	pounds wrought-iron bolts at		10 00	1,810 60
22,722	pounds cast-iron washers at		8 00	1,817 76
18.94	miles superstructure—iron, ties, track-laying, &c., at		13,000 00	246,220 00

18.94 miles at $44,568.00 per mile, $844,134.76.

Section No. 4.

From Station 5,300 to Colorado River at Fort Yuma.

Distance, 75.8 Miles.

1,094,215	C. yards earth excavation at	$	25	$273,553 75
62	C. yards second-class masonry at		12 00	744 00
415,676	feet, B. M., timber in trestles, at		60 00	24,940 56
8,376	lin. feet piling at		80	6,700 80
10,888	pounds wrought-iron bolts at		10	1,088 80
5,098	pounds cast-iron washers at		8	407 84
75.8	miles superstructure—iron, ties, and track-laying, at		13,000 00	985,400 00

75.8 miles at $17,056.00 per mile, $1,292,835.75.

Summary of Cost.

Section No. 1	26.8	miles,	$1,023,899 15
" " 2	81.57	"	9,280,837 31
" " 3	18.94	"	844,134 76
" " 4	75.8	"	1,292,835 75
203.11 miles at $61,256.00			$12,441,706 97

Total amount of elevation	4,580.8 feet.
" " " depression	4,452.1 "
" " " curvature	17,864 degrees.

The foregoing estimate is based upon a width of roadbed of 16 feet in cuttings and 12 feet where the work is on embankment. In the side hill work, more especially in the San Ysidoro and Carrisso canyons, where the deep gulches occur, the estimate is based upon the supposition that we take what excavation there may be in the adjacent cuttings to form a base for trestle-work of timber. In a few cases an amount of borrowed material is estimated, so as to bring the length of posts within 100 feet. In one case, crossing the Cottonwood, or San Ysidoro, four spans of truss bridging have been estimated, making 600 lineal feet. The mode of estimating this line, and the same is true of all the lines, has been this: The line has been estimated in embankment. Wherever the material in the excavation is shown to be beyond a reasonable haul (1,000 feet), that quantity has been added. All cuttings have been classified. On the rocky sections of the work, the foot of the heavy gradient, twenty-seven miles from the initial point, the material in excavation has been assumed

to be twenty-five per cent earth, twenty-five per cent loose rock, and fifty per cent solid rock. This classification is believed to be tolerably correct, so far as the cuttings are concerned.

The material which it is necessary to obtain for roadbed outside of the cuts proper, technically termed "borrowed," is assumed to be earth; it forms a considerable part of what is termed "earth excavation" in the estimates.

The character of the mountain rock and its material on this line is such that it may be difficult to obtain the quantity of earth for the purpose. A large quantity of loose rock may have to be obtained, which would increase the aggregate of the estimate and the cost of the work.

The amount of curvature on this line, 17,864 degrees, is excessive, indicating of itself a very broken country. It will be very readily seen, if the total curvature be divided or distributed over that part of the line where it occurs, viz., between the foot of the grade and where the line leaves Carrisso canyon, a distance of 83 miles, it will be found to give a curve of 4 degrees per station; radius, 1432 feet for that entire distance. Curves of eight degrees and ten degrees will be found necessary on this line in many places, as in Carrisso canyon and also in (printed page 118) the San Ysidoro. A lateral shift of a few feet would place the line in heavy work, in some cases making a difference of eighty or one hundred feet in the altitude. Nothing short of an actual inspection of the line on the ground can convey an adequate idea of the character of the work. It is safe to assume that no bids by the yard for doing

much of this work would be had. There would always be a doubt as to classification and a difficulty in holding material once disturbed in its place.

In consequence of the rocky character of the mountain section of this line, the grade line has been thrown out of cutting as much as a due regard for economy will warrant; the embankments are therefore heavier to some extent. Much of the heavy embankment is replaced by timber, as is evidenced by the large amount of that material provided for in the estimate.

San Gorgonio Pass Line.

As on the western slope we have several approaches to this pass, it will be necessary to institute a comparison between them, so as to arrive at the best line as to cost of construction and economy of operating.

What is designated in the index as San Gorgonio Pass Line No. 1 starts from the so-called depot grounds, at the foot of Spring street, San Diego, having a common starting point with the Otay Valley Line. At old San Diego distant from the initial point 2.65 miles, we have the starting point of San Gorgonio Pass Line No. 2; Line No. 1 following the San Diego river for a short distance, thence up Murphy's canyon, keeping in the interior crossing the drainage of the Soledad, Penasquitas, San Diegito and San Luis Rey, dropping into the valley of Temecula creek.

The latter, or Line No. 2, from its diverging point at old San Diego, hugs the coast as far as the Santa Marguerita Rancho, where the Temecula creek finds its way to the

sea, up the valley of which it runs, connecting with Line No. 1.

In the comparison we may consider the distance of 2.65 miles as common to both lines.

Distance, Line No. 1	64.5 miles
Distance, Line No. 2	59.3 miles
Elevation, Line No. 1	2,020.6 feet
Elevation, Line No. 2	903.6 feet
Depression, Line No. 1	1,624.7 feet
Depression, Line No. 2	521.9 feet

It will be seen from the above that distance is in favor of the coast line—elevation and depression largely in favor of it; and, when we take into account that much of the additional elevation and depression on the interior line is surmounted by means of heavy grades of 105 feet to the mile, whereas on the coast line no gradient of more than 63 feet per mile is necessary, the comparison is greatly in favor of the coast line. To make the comparison more complete, the following estimate of both sections is submitted:

Section of Line No. 1.—Interior Line.

Distance, 64.5 Miles.

1,369,216	C. yards earth excavation at	$	30	$410,764 80
315,681	C. yards loose rock excavation at		1 00	315,681 00
411,541	C. yards solid rock excavation at		2 00	823,082 00
14,040	C. yards tunneling at		12 00	168,480 00
5,168	lin. feet piling at		60	3,100 80
3,709	C. yards second-class masonry at		12 00	44,508 00
1,418,967	feet, B. M., timber in trestles, at		50 00	70,948 33
31,615	lbs. wrought-iron bolts at		10	3,161 50
25,674	lbs. cast-iron washers at		8	2,053 90
64.5	miles of superstructure—iron, ties and track-laying, at		13,000 00	838,500 00

64.5 miles at $41,554 per mile, $2,680,280.37.

Estimate of Part of Line No. 2.—Coast Line.

Distance, 59.3 Miles.

1,782,891	C. yards earth excavation at	$	30	$534,867 30
60,721	C. yards solid rock excavation at		2 00	121,442 00
5,926	C. yards tunneling excavation at		10 00	59,260 00
2,900	C. yards first-class masonry at		20 00	58,000 00
2,000	C. yards second-class masonry at		12 00	24,000 00
77,714	lin. feet piling at		50	38,857 00
1,840,270	feet, B. M., timber in trestles, at		50 00	92,013 50
63,114	lbs. of wrought-iron bolts at		10	6,311 40
31,248	lbs. of cast-iron washers at		8	2,499 84
2,250	lin. feet of truss bridging at		38 00	85,500 00
59.3	miles of superstructure—iron ties, &c., at		1,300 00	770,900 00

59.3 miles at $30,247 per mile, $1,793,651.04.

(Printed page 120.)

It is possible that some of the material classified above on "sec. of line No. 1" may be proved to be soft, loose rock. With our present arrangements or grades, if so, it will not be difficult to lift our line out of it. The character of the work along the coast is so favorable that the price attached (30 cents per yard) is high, and will go far towards remedying any error in classification.

As there is a difference of five and two-tenths miles in distance, a large difference in cost of construction, as well as in cost of operating, all in favor of the coast line, we may discard the interior line altogether. From the convergence of the two sections last referred to and compared, the line continues up the narrow canyon of Temecula creek for a distance of 7.26 miles, which distance is necessarily common to all lines approaching the San Gorgonio Pass from the bay of San Diego. A further description of the canyon will be given hereafter.

At the head of Temecula canyon we find the second divergent point of lines Nos. 1 and 2, the first going by way of the Laguna, Temecula creek, Riverside and San Bernardino to the San Gorgonio Pass, and the latter by a direct line via the Potrero of San Jacinto.

Line B.—"Gorgonio Pass Line No. 1," being disposed of by the comparison already made, we will now consider Line C, "Gorgonio Pass Line No. 2," as from the head of Temecula canyon, B and C are common.

Lines E and F are but modifications of Line C, the first (E) diverging from it at the Laguna and connecting again near Riverside, in the Santa Anna valley; the latter (F)

diverging at the head of Temecula canyon, occupying for a short distance common ground with the direct line (D), and connecting with Line E on the San Jacinto plains, from whence E and F are identical to point of connection with line C, near Riverside.

It will be necessary, therefore, to compare, first, Lines E and F; secondly, to compare the best of the two with Line C.

Distances are as follows:

Head of Temecula conyon to Riverside, Line E, 47.18 miles.

Head of Temecula canyon to Riverside, Line F, 43.61 miles.

	Line E.	Line F.
Total elevation	678.5 feet	679.3 feet
Total depression	705 feet	753.7 feet

Estimate of Line E.

From Head of Temecula Canyon to Riverside.

Distance, 47.18 Miles.

357,991	C. yards earth excavation at.....	$ 30	$107,397 30
73,871	" " loose rock " ".....	1 00	73,871 00
147,742	" " solid " " ".....	2 00	295,484 00
883	" " second-class masonry at.....	12 00	10,596 00
728	lin. feet piling at.....	60	436 80
552,618	feet, B. M., timber in trestles, at.....	50 00	27,630 90
12,759	pounds wrought-iron bolts at.....	10	1,275 90
6,756	pounds cast-iron washers at.....	8	405 36
47.18	miles superstructure—iron, ties and track-laying, at	13,000 00	613,340 00

47.18 miles at $23,960.00 per mile, $1,130,437.26.

Estimate of Line F.

From Head of Temecula Canyon to Riverside.

Distance, 43.61 Miles.

420,531	C. yards earth excavation at.....	$ 30	$126,159 30
75,475	" " loose rock " ".....	1 00	75,425 00
150,856	" " solid " " ".....	2 00	301,712 00
1,699	" " second-class masonry at.....	12 00	20,388 00
508,702	feet, B. M., timber in trestles, at.....	50 00	25,435 10
12,022	pounds wrought-iron bolts at.....	10	1,202 20
6,528	" cast-iron washers at.....	8	522 24
43.61	miles superstructure—iron, ties and track-laying, at.....	13,000 00	566,930 00

43.61 miles at $25,633.00 per mile, $1,117,773.84.

(Printed page 122.)

Estimate of Line C.

From Head of Temecula Canyon to near Riverside.

Distance, 53.66 Miles.

301,808	C. yards earth excavation at.....	$ 30	$90,542 40
48,362	" " loose rock " ".....	1 00	48,362 00
400	" " second-class masonry at.....	12 00	4,800 00
3,128	lin. feet piling at	60	1,876 80
340,284	feet, B. M., timber in trestles, at.....	50 00	17,014 20
8,831	pounds wrought-iron bolts at.....	10	883 10
5,292	" cast-iron washers at	8	423 36
53.66	miles superstructure—iron, ties and track-laying, at.....	13,000 00	687,580 00

53.66 miles at $15,870.00 per mile, $851,481.86.

	Line F.	Line C.
Total elevation.....	679.3 feet.	732.35 feet.
" depression.....	753.7 "	715.05 "

The comparison here again resolves itself into one of distance and cost, the elevation and depression on one line approaching that of the other very nearly. If the grades were equated on both lines, the distance of 43.61 miles length of line F would be made to approach that of Line C, caused by the heavier gradients of the former.

The advantages of this section of Line C over the shorter line are, as seen, a difference in cost of $266,292.00, and the better opportunity it offers for northern connections, as where the line deflects to the right out of the Temescal Valley the distance to Los Angeles cannot be more than 37 miles. Either line would open up the country bordering the Santa Ana river, and that of San Bernardino.

We will now compare Lines C and D from their divergence at the head of Temecula canyon to where they converge in the pass of San Gorgonio.

Distance from Temecula canyon to Pass Line C, 78.39 miles.

Distance from Temecula canyon to Pass Line D, 40 miles.

	Line C.	Line D.
Total elevations	2,414.35 feet	1,774.4 feet
Total depressions ...	755.05 feet	77.9 feet

(Printed page 123.)

Estimate of Line C.

From Head of Temecula Canyon to San Gorgonio Pass.

Distance, 78.39 Miles.

531,808	C. yards earth excavation at.....	$ 30	$ 159,542 40
95,665	" " loose rock " "	1 00	95,665 00
345	" " second-class masonry at.....	12 00	4,140 00
3,128	lin. feet piling at.....	60	1,876 80
47,258	feet, B. M., timber in trestles, at.....	50 00	27,362 90
13,912	pounds wrought-iron bolts at.....	10	1,391 20
6,812	" cast-iron washers at.....	8	684 96
78.39	miles superstructure—iron, ties and track-laying, at.....	13,000 00	1,019,070 00

78.39 miles at $16,708.00 per mile, $1,309,733.26.

NOTE.—The additional elevation and depression on this line is caused by the secondary summit between the Temecula and Temescal.

Estimate of Line D.

From Head of Temecula Canyon to San Gorgonio Pass.

Distance, 40 Miles.

839,381	C. yards earth excavation at.....	$ 30	$251,814 80
95,968	" " loose rock " "	1 00	95,968 00
191,939	" " solid " " "	2 00	383,878 00
6,498	" " tunneling at.....	10 00	64,980 00
2,724	" " first-class masonry at.....	20 00	54,480 00
2,574	" " second-class " "	12 00	30,888 00
350	lin. feet truss bridging at.....	38 00	13,300 00
1,204,000	feet, B. M., timber in trestles, at.....	50 00	60,200 00
24,623	pounds wrought-iron bolts at.....	10	2,462 30
17,660	" cast-iron washers "	8	1,412 80
40	miles superstructure—iron, ties and track-laying, at.....	13,000 00	520,000 00

40 miles at $36,985.00 per mile, $1,479,383.90.

(Printed page 123.)

The aggregate cost of the sections last considered differ $169,650. To offset this, we have the shorter distance on Line D, with a much better arrangement of grades, as our ascent is continuous from the head of Temecula canyon to the pass; whereas, on Line C, we make the subsidiary summit between the Temecula waters and those of Santa Anna creek via the Temescal.

If grades were equated, the difference in operating distance would be further increased. Throwing aside whatever advantages Line C may have in the matter of future connections, we will be quite safe in assuming Line D to be the best in an engineering point of view.

It will be understood that all the lines via Gorgonio Pass have a common extension from the pass to the Colorado river.

I shall now give an estimate of the cost of Line D from the initial point to the crossing of the Colorado river. Total distance from initial point in San Diego to the crossing of Colorado river at Yuma, 270.34 miles.

Total amount of elevation .....4,138.7 feet
Total depression .....3,995.9 feet

Table of Grades.

	Ascending.	Descending.
Between 0 feet and 20 feet per mile.....	63.26	43.65
" 20 " " 40 " " "	32.27	20.30
" 40 " " 60 " " "	10.20	13.85
" 60 " " 80 " " "	7.73	9.62
" 80 " " 105 " " "	13.79	14.65
Level.....	.....	41.02
Total.....		270.34
Maximum grade of 105 feet per mile.....	9.83	6.37

Total amount of curvature 6,354 degrees.

Estimate, Section No. 1.

From Depot Grounds via the Coast to Head of Temecula Canyon.

Distance, 67.08 Miles.

1,812,195	C. yards earth excavation at.....	$ 30	$543,658 50
165,689	" " solid rock " ".....	2 00	331,378 00
8,122	" " tunneling at.....	10 00	81,220 00
2,900	" " first-class masonry at.....	20 00	58,000 00
2,932	" " second-class " ".....	12 00	35,184 00
15,000	" " slope wall at.....	5 00	75,000 00
2,250	lin. feet truss bridging at.....	38 00	85,500 00
77,714	" " piling at.....	50	38,857 00
2,356,908	feet, B. M., timber in trestles, at.....	50 00	117,845 40
74,749	pounds wrought-iron bolts at.....	10	7,474 90
46,434	pounds cast-iron washers at.....	8	3,714 72
67.08	miles superstructure—iron, ties, and track-laying, at.....	13,000 00	872,040 00

67.08 miles at $33,540.00 per mile, $2,249,872.52.

(Printed page 125.)

Estimate, Section No. 2.

Head of Temecula Canyon to San Gorgonio Pass.

Distance, 39.98 Miles.

839,581	C. yards earth excavation at	30	$251,874 30
95,968	" " loose rock " "	1 00	95,968 00
191,939	" " solid " " "	1 75	336,893 25
6,498	" " tunneling at	10 00	64,980 00
2,724	" " first-class masonry at	20 00	54,480 00
2,574	" " second-class " "	12 00	30,888 00
350	lin. feet truss bridging at	38 00	13,300 00
1,204,000	feet, B. M., timber in trestles, at	60 00	72,240 00
24,623	pounds wrought-iron bolts at	10	2,462 30
17,660	" cast-iron washers at	8	1,412 80
39.98	miles superstructure—iron, ties, and track, at	13,000 00	519,740 00

39.98 miles at $36,098.00 per mile, $1,443,178.65.

Estimate, Section No. 3.

San Gorgonio Pass to Fort Yuma.

Distance, 163.28 Miles.

880,598	C. yards earth excavation at	$ 30	$264,179 40
51,000	" " loose rock " "	1 00	51,000 00
21,000	" " solid " " "	2 00	42,000 00
1,320	" " second-class masonry at	10 00	13,200 00
4,800	" " slope wall at	5 00	24,000 00
53,650	lin. feet piling at	70	37,555 00
20,810	pounds wrought-iron bolts at	12	2,497 20
9,845	pounds cast-iron washers at	8	984 50
668,078	feet, B. M., timber in trestles, at	70 00	46,765 46
163.28	miles superstructure—iron, ties and track, at	13,000 00	2,122,640 00

163.28 miles at $15,953.00 per mile, $2,604,821.56.

Summary.

Section No. 1	67.08	miles.	$2,249,872 52
" " 2	39.98	"	1,443,178 65
" " 3	163.28	"	2,604,821 56
$23,296.00 per mile	270.34	"	$6,297,872 73

We have now a full estimate of costs, distances, table of grades, etc., on Line A, "Otay Valley Line," and on Line D, which has proved to be the best approach to the San Gorgonio Pass from the bay of San Diego, and can now institute a comparison between them:

(Printed page 126.)

Comparison.

	Line A.	Line D.
Distance	203.11 miles.	270.34 miles.
Elevation	4,580.8 feet.	4,138.7 feet.
Depression	4,452.1 feet.	3,995.9 feet.
Curvature	17.864 degrees.	6.354 degrees.
Cost per mile	$61,256 00	$23,296 00
Total cost	$12,441,706 97	$6,297,872 73

Table of Grades—Line A.

									Ascending Miles.	Descending Miles.
Between	0	feet	and	20	feet	per	mile	.....	35.29	12.39
"	20	"	"	40	"	"	"	.....	14.21	8.28
"	40	"	"	60	"	"	"	.....	9.67	2.02
"	60	"	"	80	"	"	"	.....	6.36	13.32
"	80	"	"	105	"	"	"	.....	16.86	28.64
				116	"	"	"	.....	11.68	
					Level			....	.....	44.39
					Total			.....	203.11 miles.	

Table of Grades—Line D.

									Ascending Miles.	Descending Miles.
Between	0	feet	and	20	feet	per	mile	.....	63.26	43.65
"	20	"	"	40	"	"	"	.....	32.27	20.30
"	40	"	"	60	"	"	"	.....	10.20	13.85
"	60	"	"	80	"	"	"	.....	7.73	9.62
"	80	"	"	105	"	"	"	.....	13.79	14.65
				105	"	"	"	.....	9.83	6.37
					Level			.....	.....	41.02
					Total			.....	270.34 miles.	

It will be seen from the preceding tables that only in the matter of distance has the Otay Valley Line (A) any superiority over the San Gorgonio Pass Line (D). This is more in seeming than in reality, being more than neutralized by the heavy gradients, additional elevation, and excessive curvature of the Otay Valley line.

(Printed page 127.)

If we take an engine weighing 30 net tons, all of which is placed on the drivers, having cylinders 16 inches in diameter, with a stroke of 22 inches, driving-wheels 60 inches in diameter, working with an effective pressure of 105 pounds per square inch of piston, we have a tractive force.

$$\frac{16 \times 16 \times 22 \times 105 — 9856 \text{ lbs.}}{60}$$

The opposing force can be resolved into friction of engine, tender, and cars, resistance of gravity on inclinations and curvatures. We will assume friction of engine and tender to be 350 pounds; friction of cars, "a mean of several experiments," to be 6 pounds per ton. Resistance due to gravity—the formula:

$$\frac{W \times G}{5280}$$

(W—weight in pounds. G—grade in feet per mile.)

With the data assumed, we find that the engine will move on level grade 1,584 tons.

On a grade of 15 feet per mile.....820 tons
On a grade of 30 feet per mile.....546 tons
On a grade of 50 feet per mile.....371 tons
On a grade of 70 feet per mile.....293 tons
On a grade of 92½ feet per mile.....222 tons
On a grade of 116 feet per mile.....182 tons

We find, therefore, that a grade of

15 feet per mile for 1 mile equals—1.93 miles of level
30 feet per mile for 1 mile equals—2.9 miles of level
50 feet per mile for 1 mile equals—4.3 miles of level
70 feet per mile for 1 mile equals—5.4 miles of level
92½ feet per mile for 1 mile equals—7.1 miles of level
116 feet per mile for 1 mile equals—8.7 miles of level

If we assume the tonnage from east to west is equal to that from west to east, and apply the ratio, we find the 203.11 miles of the Otay Valley Line to be equal to 782.78 miles of straight level line. Taking the curvature, 17,864 degrees, and resolving it into a three-degree curve, equal to a grade of seven and one-half feet per mile, we have an additional length of level line of 146.64 miles, making in the aggregate, 929.42 miles.

(Printed page 128.)

Applying the same process to the San Gorgonio Pass Line (D), we find the 270.34 miles to equal 827.82 miles of level line. Taking, as in the last case, the curvature, and treating the 6,354 degrees in the same manner, we have an additional distance equivalent to a level line of 52 miles, a total of 879.82 miles, or forty-nine and six-tenths miles in favor of the San Gorgonio Pass Line (D).

It may be stated, further, that the method used of reducing the curvature as above is largely in favor of the Otay Valley Line, as much of it would have to be used in six, eight, and ten degrees curves, which, unfortunately, would occur on its heaviest grades.

No distance can be saved in location on the Otay Valley Line; but, rather, as already noticed, an additional dis-

tance of 18 miles would have to be made to avoid the sand hills of the desert.

A distance equal to two miles can be saved in location on Line D, as well as a saving of 100 feet in elevations. This was caused by the manner of making connection of Line D with Line C in the Gorgonio Pass, it is quite evident from an inspection of the map.

San Gorgonio Pass Line (D).

For purposes of description, this line may be conveniently divided into three sections:

First.—From the initial point in San Diego along the coast to the Rancho Santa Marguerita.

Second.—From the Rancho Santa Marguerita to San Gorgonio Pass.

Third.—From the San Gorgonio Pass to the crossing of the Colorado river at Fort Yuma.

Section 1.

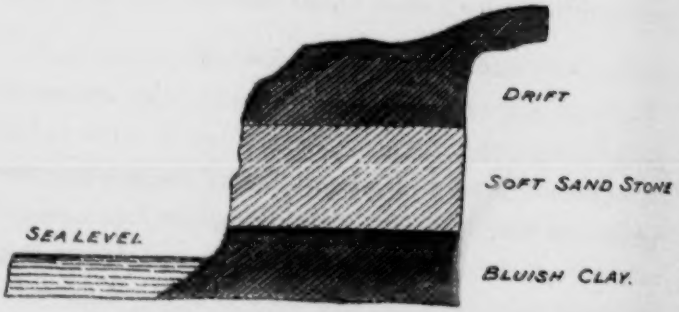
The initial point, as before stated, is identical with the zero of the Otay Valley Line. It passes along the shore of San Diego bay, with a general direction of N. N. W. to False bay, the channel of which it crosses where it is narrow and general depth of water slight, to the western slope of the Soledad mountains, continuing along that slope with easy grades and light work to the depression of La Jolla, a small ravine debouching directly to the ocean.

(Printed page 129.)

From this ravine of La Jolla to the mouth of Soledad creek, a distance of five and four-tenths miles, the break-

ers wash the base of a cliff. The Soledad mountain putting out a spur seaward for the whole distance, the heavy work on the coast line is mostly confined to this section.

The cliff presents nearly this profile:



Of the 1,782,891 cubic yards of material on this section, full 50 per cent is chargeable to this distance of less than five and a half miles. It is believed that a better arrangement of grade can be adopted on location than that I have used to make the estimate upon, and a saving made in quantities thereby.

From the vicinity of the Soledad to where the line deflects to the right, entering the Santa Marguerita Valley the country is favorable in many places; the cliff-like character of the country ceases, being replaced by a slope sufficiently flat so that the line can be placed upon its face without danger, or the moving of much material; and, again, where cliffs do occur, they are surmounted by flat table-lands easy of access, and conforming very nearly to a practicable grade.

Some elevation is lost from the necessity we are under of dropping into the valleys, viz., the La Jolla, Soledad, San Diegat, San Louis Rey, etc.

The maximum grade on this section will not exceed 60 feet per mile.

(Printed page 130.)

Section No. 2.

The distance from the Santa Marguerita valley to Los Angeles, via San Juan Capistrano and *Atahein* is estimated to be 74 miles, and the character of the country quite favorable for a railway.

From the Santa Marguerita valley, our line enters the canyon of Temecula creek. The initial point of this section (No. 2) may be considered the foot of steep grade on the San Gorgonio Pass Lines. The canyon is 10 miles in length, and is caused by the breaking through of the drainage of the Temecula basin through the Santa Ana mountains. The gorge is quite narrow in places; in seasons of freshet, the narrow channel being occupied solely by the water, as evidenced by marks on the rocks bordering the stream. A mode of construction interfering as little as possible with the waterway will have to be adopted. A reference to the estimates will show a liberal quantity of slope wall masonry provided for this part of the line.

The amount of work in the canyon is not excessive. The material will prove to be nearly all rock, and it has been so estimated. The grades are not as heavy as is usual in places of similar character, the maximum be-

ing 100 feet per mile for two miles of the distance through the canyon.

After leaving the gorge, the line crosses the open plain of Temecula, from whence it takes a course directly for the pass of San Gorgonio. This Temecula plain is an open valley between the main range and the Santa Ana mountains. The Temecula plain and the San Jacinto plain, both of which our line crosses, occupy the interval between the slope of the San Jacinto mountains and the secondary range or spur, called the Santa Ana mountains. The direction of the depression of the Temecula plain is northwest; estimated distance to Los Angeles, eighty miles; all of which is over a favorable country. Forty miles of it would be up a tributary of the Temecula and down the Temescal creek, the same ground as that occupied by our San Gorgonio Pass Line C.

From the head of Temecula canyon, the line is everything that can be desired for a distance of 24.81 miles, which takes (Printed page 131) in the slope of the Temecula basin and San Jacinto plain; from thence we follow up a tributary of San Jacinto creek to what is known as the Potrero. It is on this section that most of our heavy gradients of 105 feet per mile occur, as well as the greater part of our rock work and curvature.

This Potrero, or "pocket," opens out into the pass of San Gorgonio. A reference to the map will show that Line D tends to the left here, whereas it should bear to the right; this was done for the purpose of connection with the zero of a line starting from the pass. As a consequence, some two miles of distance is seemingly sacri-

ficed, and about 100 feet of elevation. The altitude of this, the best defined of all mountain passes, is 2,621 feet for line approaching it from San Bernardino, and 2,520 for a line via the Potrero. This seeming discrepancy is caused by the pass being triangular, having a drainage eastward to the desert, westward to the Santa Ana river, and southward to the San Jacinto. The trend of the summit is, therefore, diagonally across the broad plain of the pass, dropping off in elevation as the crest is followed southeasterly, which will readily account for the difference of 100 feet in favor of Line D via the Potrero of San Jacinto.

It is somewhat remarkable that this, the lowest of all the passes in the range, should be flanked by the highest mountains, having the high peak of San Bernardino to the north and that of San Jacinto, sometimes called San Gorgonio, to the south of it.

Section No. 3.

From the summit of San Gorgonio Pass, the line commences at once the descent towards the desert. Our profile shows light work, with maximum grades of 105 feet per mile, descending, until the mouth of Coahuila valley and the plain of the desert is reached. The grades down this slope are valuable and undulating, a constant descent being used. By increasing work and using a uniform grade a lower rate may be had. This would necessitate a closer adhering to the lateral slopes of the valley, and would increase quantities. As this is a part of the line not examined by myself personally, attention is

called to the accompanying report of Mr. J. U. Crawford, the assistant engineer, who made the survey:

(Printed page 132.)

San Diego, February 5th, 1873.

Jas. A. Evans, Esq., Eng'r Cal. Div. T. & P. Railway.

Dear Sir: I have the honor to report that on the 7th day of October, A. D. 1872, the corps of engineers under my charge began our exploration at the summit of the divide in San Gorgonio Pass. We found the summit to be a broad, triangular one, approached by three separate and distinct drainages—one from the west via the San Temotes canyon, a tributary of the Santa Ana river; another from the south via the Potrero canyon, a feeder of the San Jacinto; and a third one from the east via the San Gorgonio canyon, which unites with the Whitewater drainage. These several systems, forking at their heads into innumerable avogos and washes, made the establishing of the most advantageous summit a matter of some difficulty, and one only to be finally determined upon by the development of the ground by cross levels. This has been successfully accomplished. We commenced by laying a line in an easterly direction, down the San Gorgonio canyon in the direction of Whitewater, adhering mainly to the bottom and northern slope of the valley, and obtaining most satisfactory results as to the cost of construction, alignments and gradients.

I found the soil generally to be mixed with boulders and covered with a close undergrowth of cactus and catclaw brush, among which cattle can find some little pas-

ture. The side hill, for the greater part, is an even slope, broken occasionally by shallow cross drainage. Some 2½ miles to the north of where our line crosses the summit lies a ranch owned by Dr. Edgar. This is a well watered and exceedingly fertile estate, prolific in fruit and vines; a fine quality of wine is made at this place and bears the name of the summit. At this point, and adjacent to our line, are some never failing springs, which could easily be made available. Some 5¼ miles east of the summit our line passes 2½ miles from Gelman's ranch and Stage station, at which point a fine running spring would furnish an abundant supply of water, which Gelman freely tenders to the company in the event of their locating near them. Vandeverter's ranch is situated twelve miles from the summit and a mile north of (Printed page 133) the line. Here, also, water can be readily brought to the line. Further on, nineteen miles from the summit, we pass Whitewater Stage station, leaving it 1¼ miles to the north. Here we also find water in abundance. In this case, as is also the same with the others, the spring has a good head, and would be self-feeding to a height of fifty feet above the track.

Throughout the San Gorgonio Pass we found any amount of coarse granite rock, suitable for building masonry; while the sides and top of the San Jacinto mountains, and the ravines which cut deep into the sides of the San Bernardino mountains, are covered with a thick growth of pine, cedar, and oak, which is visible from the line, though apparently rather inaccessible. Upon our arrival at Whitewater station, I discontinued the sur-

vey of the line for the time being, and for a time operated on the western slope in the direction of Temecula, until the 27th day of November, 1872, when the line was again resumed, and pushed on past White river, where I found, for this season of the year, an unlimited supply of water fed from the mountains; when our party passed about midday it was running briskly. Our teams went on about three miles, skirting the stream, and pitched camp upon its border. They then began to fill the water barrels of the outfit, when suddenly the stream commenced to die away and sink from their view; so much so that, notwithstanding they closed it up, the party fared poorly for water that night; however, in the morning it was running briskly again. This, however, only occurs when it leaves the side hill and debouches upon the broad sandy expanse of the Coahuila Valley.

From this point as far as the Cabazon valley we passed through an arid, sandy, desert region, with no vegetation, save an occasional greenwood bush. Avoiding the sand hills, which laid for the most part in a ridge to the south of us, we laid a very direct line, without encountering any obstacles to cheap and rapid construction, to the Cabazon valley, which we entered some fifty miles southeast from the summit. Here we found the soil to have changed to a rich sandy loam, susceptible of successful cultivation by the aid of irrigation. There appears to be water in abundance, as wherever the Indians have dug for it their efforts have been (Printed page 134) rewarded, they always finding it within ten to fifteen feet of the surface.

The whole surface of this valley is covered with a thick growth of mesquite and arrow weed, which in a great measure protects it from the baneful influence of the sand storms which are prevalent here.

The Conia tribe of Indians live in this valley. They numbered some 1,700 souls when the last census was taken, but have since become reduced in numbers. They are a stalwart, hearty set of men, and subsist principally upon the mesquite bean, and the small game they are able to kill with their arrows, in the use of which they are exceedingly expert.

After leaving this valley, the line passes below tide level, and crosses the northern extremity of the Great Salt Lake of the Colorado desert. At the place of our crossing we did not strike water, but skirted it, as the mud was deep and tenacious; after which we crossed a large alkaline deposit, upon large blocks of almost pure salt, from 4 to 6 feet square and 8 to 10 inches in thickness, tassellated like a pavement, and almost correspondingly solid, which passed, we began to ascend, and traversing the southern projection of what had apparently been in ages remote a submerged island of disintegrated sands, stones, shells, a large deposit of gypsum and laminated mica. The slope was cut up in places by subsequent washes and drainage, and was completely bare of vegetation; to our north, and crossing this island, towered abruptly a formidable-looking mass—at a distance it resembled the ruins of some dismantled fortress; a close inspection proved it to be a formation of red sandstone rock, evidently the pinnacle around which, in an-

cient days, the mighty Pacific had boiled and surged; the restless waves had washed great caverns in the very heart of the rock, until they resembled the massive portals of some grim castle. So large were these openings, that into one of them I readily rode my horse. This formation is a silent witness of the fact that in days gone by the Pacific claimed all of this country as its own, and is almost the counterpart of the celebrated La Jolla caverns north of San Diego.

Seventy-seven miles from the summit, and 4 miles to the north of us, is the Dos Palmos stage station, upon the line of (Printed page 135) the Arizona mail route. At this place there are springs both saline and sulphurous, quite warm, and excellent to bathe in, but very poor as a beverage. Six miles further to the northeast of the stage road brings us to Brown's Gap.

The altitude is as yet undetermined, but, in approaching it from the direction of Dos Palmos, the indications are that a line could be obtained upon an unbroken, sustaining side hill. Ninety-four miles from the summit, and 4 or 5 miles to the south, we pass the mud volcanoes, 5 in number. They are found in eruption, alternately, and intermittently a cloud of white vapor like smoke rose out from their craters, and the constant deposit of material expelled forms, in time, miniature peaks from 30 to over one hundred feet in height. Want of time on my part precluded the possibility of a closer investigation of this subject.

Since leaving Cabajou valley, our line has been laid over a dreary, arid waste, not a vestige of either animal

or vegetable life; the soil either of a fine alkaline or sandy nature, cut by a drainage which looks in places formidable, but, when it is considered how dry and light the dust is, and that the whole surface of the country seems to slide like quicksand mixed with water, and at the slightest impediment washes for itself a new channel through the yielding material, a closer estimate of the requisite allowance necessary for proper drainage can be obtained. Across this desert there is no fresh water after leaving Cabajou, all of the springs strongly impregnated with salt or sulphur. In order to obtain a supply of fresh water, either artesian wells must be bored or a condenser used.

The water at Dos Palmos is used by both men and animals, and is much more palatable than that at Fink's Springs, which is exceedingly nauseous, but would probably sustain life.

As is seen by the profile, the line passes for a considerable distance below sea level. In addition, it evidently passes across the dry bed of a salt laguna which receives the surface drainage from a large scope of territory, without having any visible outlet. In seasons when there occurs an unusual rainfall, this basin is liable to fill up more or less. I inquired carefully into this matter, and from the best information I could obtain, I (Printed page 136) judge the limits of its rise to be within 5 feet vertical; certain it is, that the stage trail between Dos Palmos and Toros crosses it in the vicinity of the lowest portion, and has never yet been interfered with by overflow. Apart from this, however, it would probably be advantageous to locate the line from Cabajou Valley via Palma Soler,

Dos Palmos and Fink's Springs, clinging to the side hill, which is even and seems to invite and aim to maintain a level grade to connect with the line at the north end of the Sand Hill range at Sta. 6,000, which is a point we will have to make. This will throw out a rise and fall of 250 feet, but will increase the cost, curvature, and length of the line somewhat. After turning the point of the sand hills near Monmouth Tank, our line is laid almost direct to Yuma through a thick growth of palo verde, ironwood and mesquite, all dwarfed, bushy trees suitable for firewood.

In this neighborhood we also find an abundance of grass, which is quite green, and grows in tufts or bunches. This cattle eat with avidity. The formation of the ground is an almost level mesa of stony material—a natural ballast, firmly compacted. The drainage is very light and tends to the south; it seems to sink before reaching the sand hills, which block our course in that direction, rising to the proportions of a formidable-looking ridge, 150 feet high.

This valley will eventually make fine grazing land if a supply of water can be obtained. There is not a spring or well in it, save the two natural reservoirs, Monmouth and Nigger Tanks, which are situated near the base of the hills, and are simply accumulations of rain water, caught in the bottom of small scoured out ravines, and is entirely unreliable.

Some few years since the Government built a corral and started to sink a well about the center of this valley. The latter undertaking was abandoned at a depth of 30

feet without achieving any results. I am, however, sanguine that a good supply of artesian water can be had by sinking to a moderate depth.

The only obstacle we encountered between this valley and Fort Yuma was the descent from the mesa to the Colorado river bottom; this, however, was successfully accomplished by the use of a moderate grade, and crossing these alluvial flats (printed p. 137) we reached Yuma upon the morning of the 17th of December, 1872, having traversed 146 miles in 18 working days.

I take this opportunity of bearing testimony to the valuable assistance which I have received from my able assistants, Messrs. J. E. Jackson and John A. Evans, and to the uniform energy and cheerful activity displayed by the other members of the corps.

The difficulties with which we had to contend cannot well be overestimated, and can be only fully appreciated by persons familiar with the locality, or accustomed to desert travel.

I am, very respectfully yours,

JOS. U. CRAWFORD,

Assistant Engineer in Charge of Party.

The great features of the desert portion of Line D is its depression below the sea level; this can be avoided in the manner set forth in Mr. Crawford's report.

The crossing of the Colorado river at Yuma is common to this Line D, and the Otay Valley Line. The Colorado river, immediately after its confluence with the Gila, cuts through a projecting spur, which seems to leave an isolated butte on the right bank upon which Fort Yuma is established.

This butte is small in extent, affording just sufficient room for the garrison. Surrounding it on all sides, save that occupied by the channel of the river, is the alluvial bottom land of the Colorado; in season of freshets, it is, in fact, an island.

A line crossing the Colorado river bottom and approaching this elevation for the purpose of crossing the river at an elevation sufficient to dispense with the necessity of a drawbridge, could only do so by means of a long, high embankment, as the uniform level of the bottom land is maintained to the foot of the slope of the butte.

The only thing suitable for the high crossing would be a suspension bridge; the direction would be slightly oblique; the span 500 feet. The objection to a pier will be found in the character of the foundation and the cramped condition of the channel, and its shifting. The bridge site, being but a few feet from the confluence of the two rivers, the channel is some (Printed page 138) times on one side and sometimes on the other—dependent upon which of the rivers may at the time be swollen by a freshet.

As the crossing of the Colorado river cannot be considered fixed until the examinations east are completed, no soundings were taken at the crossing, but there seems to be a considerable depth of shifting material at the bottom of the river.

As before referred to, a crossing of the river better suited to our direction may be found higher up, and a considerable saving of distance be effected.

In concluding the summary for this line, it may be stated that all the available openings suitable for a railroad through the mountains have been examined. The conclusion is irresistible that the best approach from the eastward to the bay of San Diego is by way of the Gorgonio Pass and the canyon of Temecula creek.

On my arrival at San Diego, in August, 1872, the impression seemed to prevail among those familiar with the mountains east of here that a more favorable line could be had across the range by dropping into Mexican territory. So general did this opinion prevail that, during the visit of the president and yourself to this coast, the conclusion to examine it was arrived at.

Before placing a party on the line, which would have required in courtesy permission from the Mexican authorities, I resolved to make a reconnoissance of the country, to see if the route was promising, and to obtain such data in the way of altitudes and distances as would facilitate the labors of the party. As several examinations of this sort have been made during the progress of our labors here, I shall designate this as (Printed page 138).

RECONNOISSANCE OF THE TIA JUANA VALLEY AND TRIBUTARIES.

Starting from the initial point, the ground occupied by the examination is common with that of the Otay Valley Line to nearly the south line of the National Rancho, or where the line turns to the left into the valley of the Otay; from thence, continuing the southerly

course, passing La Punta, we enter the valley of Tia Juana; continuing up it 4 miles, we pass the national boundary still keeping in the valley of the Tia Juana (Printed page 139) to the mouth of the San Ysidoro, or North Branch. It will be recollected that our Otay Valley line crosses this same San Ysidoro some distance above. Following up the San Ysidoro for 4½ miles, we find a canyon or gorge.

From our initial point to the mouth of this canyon is 23 miles by the route traveled. A line 20 miles in length could be had by leaving La Punta to the right, crossing the Mesa, which would prove quite practicable. Indeed, a line of easy grades and light work could be had from the place of beginning to the entrance of this canyon. Altitude of valley at lower end of gorge, 214 feet, by barometer.

The distance through the canyon is estimated to be 2½ miles; altitude of upper opening of canyon, 445 feet. The difference in height can be overcome by a grade of 100 feet per mile; or, what would be better, the shorter or Mesa line could, at the cost of additional work, be kept up on the slope and a lower gradient used to overcome this elevation. Passing this gorge, the valley of the San Ysidoro opens out, having some extent of bottom land along the margin of the usually dry bed of the stream, for a distance of 5 miles, in which distance we pass out of the valley of the San Ysidoro, taking that of Tecate creek for better location.

The ascent of the valley for this distance of 5 miles is 103 feet; making the total altitude 548 feet. At this

point the valley of Tecate creek ceases and becomes a close canyon, continuing for 2¾ miles. The difference in altitude between the opening of the gorge and the upper end, 915 feet, or 333 feet per mile; total altitude, 1,463 feet. This elevation would have to be made by any line occupying the ground examined. Starting from the upper end of the canyon, with its elevation of 1,463 feet, running back toward the Bay of San Diego, with a gradient of 100 feet per mile, would require a distance of 14 63-100 miles, which would take us back to where the line would leave the Mesa, somewhere near the crossing of Otay creek. I doubt much if sustaining ground could be had for such a gradient. Certain it is that the work would be very heavy, caused by the broken character of the slopes.

This canyon of Tecate may be considered one of the controlling points on this route. From the head of this gorge to near (Page 140) the head of San Jose Valley, an affluent of the Tecate, the distance is estimated at 12½ miles; difference in elevation, 1,482 feet, requiring a grade of 118 feet per mile. This profile would be broken, the work very heavy, as it would be necessary to cling to the lateral slopes for the entire distance.

From the head of San Jose Valley to the summit of the divide, an estimated distance of 18 miles, no difficulties occur. The elevation of summit is 3,580 feet. From thence this line would pass through a depression leading into the Carriso canyon, connecting with the Otay valley line at the head of it.

A line over the ground examined would have no advantage over the Otay Valley line in point of cost—the

only superiority would be the saving of 290 feet in the summit.

If the country covered by this reconnoissance was under the jurisdiction of our Government, and if the question of route lay between the Otay Valley line and this, it would be well to give the ground passed over a more thorough examination.

It is estimated that no saving in distance would be effected by this line over the Otay Valley line.

Table of Distance and Elevation.

Initial Point, San Diego.....	miles	16.3	feet.
Crossing of Otay creek.....10	"	25.	"
Barber's Rancho, Tia Juana Valley.. 4	"	80.	"
Bendenas, Mouth of San Ysidoro... 5	"	160.	"
Canyon San Ysidoro (lower end).... 4	"	214.	"
Canyon San Ysidoro (upper end) 2½	"	445.	"
Canyon of Tecate Creek (lower end). 5	"	548.	"
Canyon of Tecate Creek (upper end). 2¾	"	1,463.	"
Head of San Jose Valley.....12½	"	2,945.	"
Summit of Divide.....15¼	"	3,580.	"
Head of Carriso Canyon.....14¼	"	2,638.	"

75¼ miles.

In the examination of railway lines looking to the bay of San Diego as a terminus, more or less attention has been given to the route via Warner's Pass. In the matter of actual distance, a line connecting San Diego with the Colorado river at (Printed page 141) or near Fort Yuma, via this pass, would rank midway between the Otay Valley line and the line via San Gorgonio Pass.

The approach to Warner's Pass from the desert has not been looked upon with favor by engineers who have examined it. (Vide Report of Col. R. S. Williamson, Pacific Railroad Reports, and also A. B. Grey, Civil Engineer.)

The only favorable report I am aware of is that of Mr. Chas. H. Poole, made to the San Diego and Gila, Southern Pacific and Atlantic Railroad Company. I have so far been unable to find a copy of the reports in extenso. In Senate Document No. 5, Session 1856, incorporated into the report of the surveyor general of the State of California, we find a reference to this report, and a short summary of it, with tables of grades and altitudes, over the signature of Mr. Poole, who at that time was deputy surveyor of San Diego county. I copy a part of the table:

	Intermediate Distance Miles.	Total Distance Miles.	Altitude Feet.
Bay of San Diego, Capitan Grande, Indian Village	32 3-10		727 66-100
Summit of San Isabel	18 87-100	51.17	3,360
San Jose Valley	3.44	54.61	2,768
Warner's Summit	9.27	63.88	3,630
San Felip	10.82	74.70	2,455
Entrance of Canyon	8.05	82.75	2,638
Great Lagoon	51.75	134.50	70
Mouth of Gila	66.00	200.05	180

The manner of making the examination, which I believe was instrumental, seems to have been a line run in the lowest part of the several valleys, viz., up the valley

of San Diego river to the mouth of Oakwood canyon, up that drainage to the secondary summit of Santa Isabel. In the table, of which the foregoing is an abstract, actual grades are given of 171 feet, 181 feet, 254 feet, and 452 feet per mile on the western slope; from the information thus obtained a deduced grade of best observed location is obtained of 107 feet permile. The secondary summit of Santa Isabel, which separates the drainage of the San Diego river from that of Warner's Pass, which flows into the San Luis Rey river, and the San *Bernardo* is a controlling point as (Printed page 142) to grade, assuming that the summit can be lowered by cutting 40 feet, making the elevation of grade 3,320 feet; a gradient of 100 feet per mile would have its footing some 6 or 7 miles down the Indian Village of Capitan Grande, and would require to be continuous for 26 or 27 miles. As this would be side-hill work for the entire distance, and over broken slopes cut up by deep lateral ravines, they would be in character similar to that on the Otay Valley Line.

It is quite evident from Mr. Poole's table and corroborated by our own examinations that the natural approach to Warner's Pass is not by the drainage of the San Diego river, but rather by the San Luis Rey.

The summit of Warner's Pass is given by Mr. Poole as 3,629.56 feet. Colonel Williamson gives the altitude as 3,780, which nearly agrees with our observations in the vicinity. As the latter are barometric and the former supposed to be obtained by actual survey, it is presumed to be the most correct.

A line via the San Diego river and Warner's Pass would give a greater amount of elevation and depression than our Otay Valley line, caused by the Santa Isabel summit on the western slope, and the San Felip summit on the eastern, both of which are additional and unavoidable. Reports having reached me of a summit north and east of Warner's Pass, which promised an opening to the desert, I instructed Mr. A. P. Wood, principal assistant engineer, to examine it and take with him a guide who, from having lived in the vicinity, was supposed to have an accurate knowledge of the country. Mr. Wood's report is submitted. It will be gathered from it that the proper and natural outlet to the coast from Warner's Pass, and also the pass which he examined, is via the drainage of the San Luis Rey river, which would dispense with all secondary summits and give a continuous descent from the summit to the sea.

J. A. Evans, Eng'r Cal. Div. T. & P. Railway.

Dear Sir: I herewith submit a report of an examination made by me, according to your orders of Oct. 20th, 1872, of a pass in the Sierra Nevada mountains, situated at the head of (Printed page 143) the San Luis Rey river, and about 2 miles north and 5 miles east of Warner's Pass; also of the country east of the pass leading down to the desert, and from the same point westward, down the valley of the San Luis Rey river to the ocean, with a view of ascertaining its practicability as a railroad route.

I reached the neighborhood of the pass on Oct. 28th, accompanied by John Warner, as guide. The pass is a

gap from 3 to 4 miles wide, the mountains rising abruptly on either side. The surface of the country is smooth, gradually ascending from the west to the summit, where I found, by barometric observation, the elevation to be 3,900 feet. At the north of the pass the descent eastward is, in many places, precipitous. By an observation, taken on an arm of the desert, I found the fall to be 3,000 feet in a distance of 7 miles.

On the north side the pass leads into a canyon, which I followed to where its drainage enters San Felip creek at the lower end of San Felip canyon. The distance from the summit of the pass to this point we estimated to be 10½ miles. The descent in the first 2½ miles from the summit is 710 feet; in the next 3 miles it is 775 feet; and from thence, for a distance of 5 miles, 130 feet per mile or 650 feet. This rapid descent of the canyon would necessitate keeping a line on the side of the mountain. On the side of the mountain separating this canyon from the San Felip Valley, I think sustaining ground can be found for a line of practicable grades and curves.

Though I am of the opinion that a grade of 116 feet per mile from the summit would necessitate crossing a low place in the mountains into the valley of the San Felip, and to get out of this valley with a line of the same grade, a line would have to follow the mountains back in the direction of Warner's Pass for some distance, and thence bear south and east along the mountains on the south side of the valley.

This would involve a great amount of curvature, and the work would be of a very heavy character, as the sides

of the mountains are cut up by deep, lateral canyons and sharp spurs composed of solid rock. The surface of the country is covered with granite rock, which appears to be rapidly disintegrating. There is scarcely any growth of vegetation here.

(Printed page 144.)

From the summit of the pass, westward, down the valley of the San Luis Rey, I found an entirely different country. According to barometric observation, the descent does not exceed 100 feet per mile for any part of the first 15 miles from the summit west. The country is a smooth valley, varying in width from ¾ to 3 miles, and well watered.

At this point the stream leaves the valley of Warner's Pass, and enters San Jose Canyon. In a distance of 16 to 18 miles, this canyon descends 1,720 feet. The sides of the mountain to the south of the stream is comparatively smooth and favorable for the construction of a railroad.

After leaving the canyon there are no difficulties in the way between that point and the ocean, as a line would follow the valley of the San Luis Rey. Good alignment can be had from the summit to the ocean. The course of the stream is from east to west, and it is comparatively free from sharp angles.

There is a good supply of timber for fuel—not for other purposes—on the sides of the mountains, from the summit to the mouth of San Jose canyon, and an abundant supply of good water from the summit, west. I found a few springs of pure water on the desert side,

though I doubt the supply being sufficient for railroad purposes.

Respectfully yours, etc.,

A. P. WOOD,
Prin. Asst. Engr.

It would seem from the examinations of Mr. Wood, that the pass, north and east of Warner's Pass, is less advantageous than Warner's, as in making the descent from it towards the desert it would be necessary to make the detour back into the valley of the upper San Felip and surmount the secondary summit between the drainage of San Felip and the Carisso. It would seem, by comparing authorities, that the summit is higher than that of Warner's Pass. It is presumed, further, that the line indicated by Mr. Poole would exceed in elevation and depression, as well as in distance and grade, the Otay Valley line; it need not, therefore, be used in a comparison with our northern lines, via San Gorgonio Pass.

(Printed page No. 145.)

The openings or passes in the range east of San Diego, may be summarized as follows:

Name of Pass.	Altitude. Feet.	Natural Approach to.
1. San Gorgonio	2,521	Coast Line, Temecula Canyon, and Potrero of San Jacinto.
2. Warner's Pass	3,630	Coast Line and San Luis Rey Valley.
3. Pass near Warner's	3,900	Coast Line and San Luis Rey Valley.

4. Volcan Pass	3,850	San Diego river and Trib.
5. Head of Pine Valley	4,700	Otay creek, Cottonwood Val.
6. Walker's Summit	3,870	Otay Creek, Bear Canyon, and Melquate Creek.
7. Los Huntos' Summit, Mexico	3,580	Tia Juana Valley, San Ysidoro and Tecate creek.

The impracticability of the summits 4 and 5 consists largely in the difficulty in reaching the desert, the direction of the descent being directly east, and not parallel with the direction of the range, as is the case with the approach to Warner's Pass and Walker's summit.

Terminus of San Diego.

The Texas and Pacific Railway Company has acquired title to two leagues of land, in the vicinity of the bay, 700 acres of which lies in a compact body, contiguous to the best and most accessible part of the ship channel on the eastern shore of the bay. This tract is conveniently situated for the location of depots and shops, requiring little or no grading for that purpose.

By reference to the map it will be seen that a spur line from our Line D, diverging near Old San Diego, would make available for business the basin inside of Ballast Point, and in front of La Plaqua. This spur will cost but little to grade, and if required, dockage could be

made there with little expense, so as to place cars within reach of ship tackles.

It may be mentioned, as one of the advantages of the northern line, that all approaches to it from any point of the bay will prove to be simply extension of line, as opposed to lengthy detours.

In conclusion, I beg to refer to the valuable aid received from Mr. A. P. Wood, principal assistant, upon whom has devolved most of the labor of preparing the estimates, and to Mr. J. U. Crawford, by whom much of the labor of developing the line via Gorgonio Pass was performed. (Printed page No. 146.) That we are able to give results so soon is due in no small degree to the activity displayed by him in his allotted part of the work, and to Mr. C. J. Fox, who also developed some of the most important lines leading to San Gorgonio. Mr. Fox's labors were conducted with great care, and whatever part of them may be adopted, much labor will be saved in future location.

To Mr. J. H. Reno, upon whom devolved the most difficult and discouraging part of our surveys, much credit is due. In the month of July, 1872, he managed to keep the party together under difficult circumstances, although not then in full charge of it.

From Mr. C. P. Taggart, to whom I was referred to for advice in all legal matters, I have received valuable assistance and counsel.

Respectfully submitted,

JAMES A. EVANS,

Engr. Cal. Div.

Q. The Southern Pacific Railroad Company from Yuma up to San Gorgonio was built upon your line, I believe?

A. I have no knowledge upon that subject.

Q. Your company furnished the Southern Pacific with your engineer's report, your maps and the data showing your lines; did it not? A. No, sir.

Q. You say that this annual report of the president on behalf of the board of directors was approved by the stockholders. To what report do you refer? I am asking now particularly about the report of 1875, from which I have offered extracts in evidence.

A. What is your question?

Q. What do your records show about the acceptance and approval of the report of the president, Thomas A. Scott, on behalf of the directors to the stockholders for 1875?

A. The minutes of the proceedings at the stockholders' meeting held August 10th, 1875, show: "The annual report of the board of directors, showing in detail the operations of the company and its officers for the year ending May 31st, 1875, was then submitted by the vice-president, and on motion duly seconded, it was 'Resolved that the fourth annual report of the board of directors be, and the same is hereby, accepted by this meeting; that it be placed on file in the archives of the company, and

Be it further resolved, that the action of the officers and directors of the company, as set forth in the report, be, and the same is hereby, ratified, adopted, and confirmed as the action of the stockholders.' "

Q. You read that from the record?

A. I read that from the minutes of the meeting.

Q. Do you also say that the record also shows that the fifth, sixth, and seventh annual reports were likewise ratified, adopted, and confirmed?

A. Yes; by the stockholders.

Mr. CALL.—I offer in evidence, from the third annual report of the president, on behalf of the board of directors, to the stockholders, the following:

(The Title Page:) "Third Annual Report of the Board of Directors of the Texas & Pacific Railway Company to the Stockholders, August 11th, 1874; and Supplemental Report, March 29th, 1875"—printed together in one book.

I also offer in evidence, on page 5, the following:

"Third Annual Report of the Texas & Pacific Railway Company, New York, August 11th, 1874, to the Stockholders of the Texas & Pacific Railway Company."

"Gentlemen." . . . .

I also offer, on page 9, the following:

"The Report of General G. M. Dodge, Chief Engineer, gives detailed tables and elevations, gradients, and distances and to it you are referred for much valuable information. It states, briefly, that the divide of the continent is crossed at an elevation of 4,893 feet, on very light grades, not exceeding 66 feet to the mile, while on the entire line the total length of grade from 80 to 105 feet, will not exceed 45 miles, and from 66 to 80 feet, 72 miles."

I also offer, on page 12, the following:

"California Division.—Distance 444 4-10 miles. This division will command the business up and down the Pacific, and will connect with the Southern Pacific Rail-

road of California at San Gorgonio Pass, giving a direct route to San Francisco."

I also offer in evidence, on page 16, the signature, as follows:

"By order of the Board.

Thomas A. Scott, President."

By Mr. CALL.—Q. Was this report also accepted and confirmed?

A. The only record that I find in reference to that is a record of a meeting of stockholders held March 29th, 1875:

"The annual report of the president, showing the operations of the company for the thirteen months ending May 31, 1874, together with a supplemental report covering an act of Congress passed June 22nd, 1874, authorizing the company to change its mortgages, and a proposed plan for readjusting the mortgage debt of the company; also covering certain acts passed by the Texas legislature, giving the company further time in which to complete its road; also reporting the purchase of certain property and franchises from the receiver and trustees of the Memphis, El Paso & Pacific R. R. Company bondholders; and also reporting the terms agreed upon with the Cal. & Texas Ry. Construction Co. for canceling the construction contract heretofore made and existing under date of Aug. 6th, 1873, with that company, and for a full and final settlement of all claims and demands in any manner arising out of said contract, all of which were submitted to the meeting. Whereupon, on motion, it was unanimously resolved that the annual report of the president of the company, together with his supple-

mental report be, and the same are hereby, accepted and ordered to be placed on file, and the action of the president and board of directors as therein stated be, and the same are hereby, ratified, adopted, and confirmed as the acts of the stockholders of this company."

Q. Will you kindly look at this third annual report, which seems to contain a report and supplemental report, and state whether both of them are printed together as one book?

A. It appears to be printed as one pamphlet. The report is dated August 11th, 1874, and the supplemental report is March 29th, 1875.

Q. That part of it which contains the supplemental report relates to what?

A. It relates to the acts of Congress.

Q. Then that is what is referred to in the acceptance by the stockholders, is it not?

A. It appears to be.

Cross-Examination.

Mr. PAYSON.—The defendants offer in evidence the last paragraph of the report of Gen. G. M. Dodge, dated May 10th, 1873, headed "California & Texas Railway C. Company," being the same document a portion of which was offered by Mr. Call.

Said paragraph now offered reading as follows:

"Since July, 1872, over 8,000 miles of instrumental lines have been run, 15,000 miles of reconnoissance made; and this through a country infested by hostile Indians, and although our parties have been attacked, our men killed and scalped, no delay has occurred in work or sur-

veys. We have developed a country 1500 miles long east and west and 150 miles in width, north and south—so thoroughly developed, that we are now able to very nearly determine the line for location from Red river to the Pacific."

Will you please give the date of the sixth annual report from the bound volume which you hold in your hand? A. August 14th, 1877.

Q. Will you please look at the pamphlet which I now show you, purporting to be the sixth annual report of the board of directors of the Texas & Pacific Railway Company to the stockholders of that company, dated August 14th, 1877, with the map facing the title-page thereof (exhibiting the pamphlet to the witness), and state whether it, and the map facing the title-page, is the official report for that year?

A. Yes, sir; it is.

Mr. PAYSON.—For the purpose of identification, I will ask the witness to write his name upon the outside of the map, facing the title-page of the report.

The WITNESS.—This is the 6th annual report, and I have written my name on the outside of the map and on the title page of the report, as requested.

(Mr. Payson, on behalf of the defendants, also requests the commissioner to write his name under the signature of Mr. Satterlee, in the two places indicated above, for the purpose of more fully identifying the paper, which was accordingly done.)

C. E. SATTERLEE.

Subscribed and sworn to before me this 28th day of December, A. D. 1896, as to direct and cross-examination herein before set forth.

WM. HERBERT SMITH,
Special Examiner and Stenographer.

And thereupon the further taking of these depositions was adjourned by consent until Saturday, November 21st, A. D. 1896, at 2 o'clock P. M., at the rooms of J. H. Call, special assistant attorney for the United States, at the National Hotel, in the city of Washington and District of Columbia.

Washington, D. C., November 21, 1896.
2 o'clock P. M.

Met pursuant to adjournment, at the room of J. H. Call, at the National Hotel, in the city of Washington, at 2 o'clock P. M., on the 21st day of November, A. D. 1896, there being present Joseph H. Call, assistant United States attorney, and the witness, John T. Granger.

No appearance being made by the defendants or their counsel, after waiting for the attorney for the defendants until the hour of 3:15 o'clock P. M., on the same day, at the same place, the following proceedings were had:

JOHN T. GRANGER, a witness of lawful age, called by and on behalf of the complainant, having been first duly sworn, is examined:

By Mr. CALL.—Q. What is your full name?

A. John T. Granger.

Q. Where do you reside?

A. At No. 1441 Rhode Island avenue, Washington, D. C.

Q. Are you acquainted with Gen. G. M. Dodge?

A. I am.

Q. How long have you known him?

A. For 24 years and over.

Q. Were you acquainted with him during the years 1873 and 1874? A. I was.

Q. What relation, if any, did you have with him at that time? A. I was his private secretary.

Q. What business or occupation was Gen. Dodge engaged in during those years?

A. Gen. Dodge at that time was chief engineer of the California and Texas Railway Construction Company.

Q. What position did he hold in the Texas & Pacific Railway Company?

A. None. He was not connected with the Texas & Pacific. The two corporations were kept entirely separate and distinct.

Q. What were the relations of the Construction Company to the Texas & Pacific Railway Company?

A. The Construction Company contracted to build the railway of the Texas & Pacific Railway Company, commencing really at Shreveport, Louisiana; that is, they rebuilt the old Texas & Pacific road from Shreveport, Louisiana, to a place called Hallsville, in Texas, and thence westward towards California, and also from Marshall, Texas, northward through Jefferson and Texarkana, to Sherman, Texas.

Q. In speaking of the California line, you refer to the line described in the act of Congress of March 3, 1871, for

the construction of a railroad from Texas westward to San Francisco? A. Yes; that is right.

Q. Who had charge of the surveys on that line for the railroad company, or for the construction company?

A. For the construction company, Gen. Dodge, had entire charge of surveys.

Q. The construction company had charge of it under the railroad company?

A. Simply as contractor and contractee. The railway company had no engineers in the field. The construction company was to do it all, to do the entire work of locating, surveying, and constructing the road over the best lines that they could find between the points named —that is, between Marshall, Texas, and San Diego.

Q. Please go on and state, if you know, what was done in the way of locating the line of railroad from Marshall, Texas, to San Diego.

A. A very large body of engineers was put into the field, and they were distributed over the entire line. Surveys were made, and the line located over the entire distance from Marshall to San Diego.

Q. Were you acquainted with James A. Evans?

A. I was intimately acquainted with him.

Q. What relation did he have at that time, and during those years, if any, in the matter of surveying for the construction company?

A. He was one of what we called the division engineers.

Q. Under Gen. Dodge?

A. Under Gen. Dodge.

Q. Did you know Joseph U. Crawford?

A. I did.

Q. What connection did he have with those surveys, if any?

A. My recollection is that he was the chief assistant of Mr. Evans. He was employed under Mr. Evans for a long time, and did a great deal of work on the California end of the line.

Q. Did they report to Gen. Dodge, showing the progress of their work?

A. They did, fully, from time to time.

Q. I have requested you to produce, if you have it, a copy of the report of 1874, made by Gen. Dodge to the railway company. Have you that report?

A. I have. I now produce it.

Q. When was that report made?

A. On or about May, 1874.

Q. Was that report printed at that time under the supervision and direction of Gen. Dodge?

A. Under his persnoal supervision and direction.

Q. What part, if any, did you have in preparing that report?

A. I was the general's secretary, and had charge of the reports of the division engineers as they came in. I compiled the book, and the original copy of it was in my handwriting.

Q. This printed report which you have here contains the reports of Mr. James A. Evans and Mr. Joseph U. Crawford. Did the original report also contain those reports as therein shown?

A. It did. It contained everything that is within the covers of this book.

Q. What was done with the report, with the accompanying report, when it was finished by Gen. Dodge?

A. It was transmitted to the president of the Texas & Pacific Railway Company—Col. Thomas A. Scott, at Philadelphia.

Q. And was then printed?

A. Yes; it was then printed.

Q. Is this a copy of that report? A. It is.

Q. Has that report been in your possession, or in the possession of Col. Scott, since it was made?

A. Do you refer to the original?

Q. To the printed copy of the report.

A. Quite a number of these copies were printed, and either this or other copies have been in Gen. Dodge's office, with which I was connected.

Q. They were all a part of the same print?

A. All a part of the same print; the same thing. This identical copy has been either in Gen. Dodge's possession or in my possession ever since it was printed. The others were in pamphlet form. I think this is the only one that was bound in boards.

Q. Have you ever been over the line of the Texas & Pacific Railway Company from Marshall, Texas, to San Diego, described in this report?

A. I have not.

Q. Have you ever been to San Diego? A. No.

Q. Was Gen. Dodge, chief engineer of the construction company, engaged in making these surveys on behalf of the Texas & Pacific Railway Company during the whole of the years 1873 and 1874? A. Yes, sir.

Q. Did he also act in that capacity during the year 1875?

A. I cannot say when he resigned his position as chief engineer. It is so long ago that I cannot recall just when it was; but I believe it was considerably later than 1875. I could not swear to it, however.

Mr. CALL.—I offer in evidence from the printed report, entitled "Texas and Pacific Railway Company, Report of Gen. G. M. Dodge, Chief Engineer, 1874," the title and pages 3 to 12, inclusive, down to the words, "in addition to the main line from Shreveport to San Diego," as follows:

TEXAS AND PACIFIC RAILWAY COMPANY.

Report
of
Gen. G. M. Dodge,
Chief Engineer.
1874.
New York.
Geo. W. Wheat, Fine Mercantile Printer,
109 Nassau Street,
1880.

(Printed page 3.)

Report
of
Gen. G. M. Dodge,
Chief Engineer,
Texas and Pacific Railway Company.

Chief Engineer's Office,
Marshall, Texas, May, 1874.

Col. Thomas A. Scott, President Texas and Pacific Railway.

Sir: The charter of the Texas and Pacific Railway Company, as granted by the United States, provides for the construction of a continuous railroad and telegraph line from Shreveport, Louisiana, by Marshall, Harrison county, Texas; thence by the most direct and eligible route to be determined by the company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona to a point on the Rio Colorado, at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to Ship's Channel, in the State of California, pursuing in the location thereof, as near as may be practicable, the thirty-second parallel of north latitude.

(Printed page 4.)

This charter also provides for the construction of a railroad from Fort Yuma to San Francisco, not limiting us from taking the most economical advantages of the topography of the country in leaving our main line.

It requires that one hundred miles each year shall be completed from its eastern terminus, and ten miles from its western terminus by May, 1874, and after that twenty-five miles per year from its western terminus, until the two lines meet. The rate at which the line is to built from its eastern end is materially modified by its charter in Texas, which is more fully explained in a subsequent part of this report.

As far as possible, we consider the question connected with the construction of the road, as follows:

First.—Location of lines.

Second.—Connections.

Third.—Water supply.

Fourth.—Timber.

Fifth.—Fuel.

Sixth.—Ballast.

Seventh.—Building stone.

Eighth.—Agricultural resources.

Ninth.—Mineral resources.

Tenth.—Land and town lots.

Eleventh.—Earnings.

Twelfth.—Commercial and military value.

You will also find, in a condensed form, estimates of cost of construction and equipments; table of grades, summits and distances, and comparison with other transcontinental lines. Annexed will be found reports of engineers in charge of the different divisions, with copies of the instructions under which they acted:

Divisions.

For Surveys and Construction.—The whole line was divided into five divisions:

1. Construction East of Fort Worth.—In charge of Capt. R. S. Hayes.

2. Brazos division. From Fort Worth to a point a little (printed page 5) west of the one hundredth meridian and south of Double mountain. In charge of Messrs. Hodges, Wilson and O'Neill.

3. The Pecos division.—From the Brazos division to Fort Bliss, or El Paso, on the Rio Grande, in charge, first, of Mr. E. D. Muhlenburg, and finally in charge of Maj. M. F. Hurd.

4. New Mexico division.—From the Rio Grande to the Pima villages, on the Rio Gila, in charge of Mr. George Wolcott.

5. California division. From the Pima villages to San Diego, California, in charge of Mr. J. A. Evans.

Extent of Surveys.

To develop the country in detail on or in the vicinity of the thirty-second parallel of latitude, a belt of country 200 miles wide and 1900 miles long was thoroughly explored, 10,000 miles of instrumental line run, and 15,000 miles of reconnoissance made, from July 1st, 1872, to January 1st, 1874, at a cost of $500,000.

For the detailed information as to the line, I refer you to the report attached hereto.

Road in Texas.

In the State of Texas, three divisions of the Texas and Pacific Railway have been placed under construction:

1. Southern division, Shreveport to Fort Worth, 219 miles.

2. Transcontinental division, Texarkana to Fort Worth, 236 miles.

3. Jefferson division, Marshall to Texarkana, 69 miles.

Texas Charter.

The charter granted by the State of Texas requires the completion of the road:

1. From Marshall to Texarkana, its junction with the St. Louis, Iron mountain and Southern Railway, by January 1st, 1874.

(Printed page 6.)

2. From Texarkana to Sherman, Transcontinental division, and from Longview to Fort Worth, on Southern division, by July 1st, 1874.

3. From Sherman to Fort Worth, Transcontinental division, by January 1st, 1875.

In July, 1872, when the present company entered upon the work, the road was in operation from Shreveport to Longview, a distance of 66 miles.

The company not only intended to build a railroad to the Pacific, developing the country adjacent to the thirty-second parallel of latitude, but to construct its eastern divisions—that is, two lines diverging from Fort Worth to the east. It would connect the Pacific coast and the territories through which the line passed with the manufacturing and commercial centers of the north, east and south, by the shortest, most direct and practicable route.

By them we reached St. Louis from Fort Worth, via the Transcontinental division and the St. Louis, Iron mountain and Southern Railway, in 745 miles; Chicago by same route, to Poplar Bluff; thence by Cairo and Illinois Central Railroad, in 998½ miles. To New York, via Sherman, Texarkana, Little Rock, Memphis, Louisville, Cincinnati, and Pittsburgh, 1756 miles, or to New York via Shreveport and North Louisiana Railway to Vicksburg, and thence by Central Southern lines to New York, 1653 miles. By same route to Richmond, Virginia, 1386 miles,

and to Washington, D. C., 1468 miles. To Galveston by Dallas and the Texas Central Railroad, 345 miles, or via Minneola to the Great Northern Railroad, 399 miles, and to New Orleans, by Shreveport and Red river, or via Shreveport, Vicksburg and Mississippi river, or via contemplated route through Louisiana, via Marshall, Donaldsonville and Vermillion.

The Jefferson division, from Marshall to Texarkana, with its connections, also gives a direct route from Galveston, Houston, San Antonio, Austin and southeastern Texas, via the International and Great Northern, to the north and northwest, distance from Galveston to St. Louis, 875 miles.

In addition to these advantages, the three divisions, forming the three sides of a triangle, with its least angle at Fort Worth, develops the richest and best settled portions of north Texas, a country heretofore without transportation facilities, but (printed page 7) abounding in everything required for a numerous and wealthy population.

Construction.

The original charter from the State of Texas required that we should complete the whole road to Fort Worth by January 1st, 1874, and the efforts upon the part of the company to comply with the charter, and complete over 500 miles of road within one year, required an enormous expenditure of money.

The three divisions east of Fort Worth, 525 miles, was estimated to cost $12,363,129, and was under charge of Capt. R. S. Hayes, as engineer in charge of construction,

Mr. J. M. Eddy, assistant superintendent, being in charge of transportation, supplies, and material.

The report of Capt. Hayes is herewith submitted, giving full details of the work from August, 1872, to February 1st, 1874.

Completed Road.

Southern division, Longview to Dallas, 124 miles.

Jefferson division, Sherman to Texarkana, 74 miles.

Transcontinental division, Sherman to Brookston, 58 miles.

256 miles have been completed and accepted by the State of Texas and by the United States as a first-class road, complying with all the requirements of the charter and laws of Texas, and with the acts of Congress.

107 miles additional have been graded, tied, and bridged, ready for the iron, and in addition to this, 66 miles of road have been partially rebuilt; ties, bridges, buildings, depots and tanks renewed, and the gauge changed from 5 feet 6 inches to 4 feet 8½ inches.

Over $9,000,000 have been disbursed in completing this work, without any loss to the company, and within the amount of the estimate first submitted, although they did not then contemplate the extraordinary outlays rendered necessary by the lack of navigation in Red river, or the delay of the completion of the connecting roads, the epizootic, and finally the yellow fever, which quarantined us for ninety days.

This large expenditure of money in so limited a time, forced upon us by the State legislature, rendered the undertaking a (printed page 8) difficult and serious one.

Up to the time of the financial panic, our organization and progress had assured us that we would be able to comply with the requirements of our charter.

Had we been in railroad communication with St. Louis and Galveston in the fall of 1872, as was promised, instead of the spring of 1873, or could we have relied upon the navigation of Red river, as we had a right to expect from the experience of former years, say from November, 1872, to March, 1873, our line would have been completed to Dallas and Sherman by January, 1874, and our construction well advanced from Dallas to Fort Worth. Notwithstanding these drawbacks, we built more railroad during the year than any other company in the United States.

The three divisions, as soon as completed, will earn at least $5,000 per mile per annum, and as the country fills up the earnings will gradually and permanently increase.

The eastern part of the State, through which the line runs, is heavily timbered with pine, oak, and cypress. The western portion is prairie. The local demand for lumber in the west, the return transportation of cattle, cotton, and grain east, and the passenger traffic over it in every direction, covering, as it does by its connections, the whole of the thickly settled portion of Texas, will give this part of the line, when completed and equipped, a very large, remunerative, and increasing trade. The completed road is a first-class, new railroad, substantial in all its parts, and fully equal to any of the roads of the western States.

The bridges, shops, water stations, and depot buildings

are ample and substantial, far exceeding its present wants. The equipment is new and from the best shops.

To complete it to Fort Worth, as required by law, it will be necessary to lay track, erect water stations and buildings on the graded, tied and bridged portion of the transcontinental division from Texarkana to Brookston, a distance of 94 miles, by July 1st, 1874, and the building of 27 miles of new line from Dallas to Fort Worth by July 1st, 1874; also the construction of the line from Sherman to Fort Worth by January 1st, 1875, distance 81 miles, and thereafter each year not less than 100 miles on the Texas end, and 25 miles on the California end of the line each year until completed across the continent.

(Printed page 9.)

There is now before the legislature of Texas a bill granting all roads one year's extension of time. Should it pass, it will add an additional year to the time above stated.

In the fall of 1873, in accordance with the law of the United States, work was commenced at San Diego, California, under the supervision of Mr. James A. Evans, division engineer, ten miles of work was let; at this time the grading, bridging, and tieing is nearly completed. This work is still progressing, and we hope within the next ninety days to have it ironed and equipped.

Nearly all of our arrangements, right of way matters, real estate, etc., at San Diego, have been satisfactorily settled, and work should be commenced as soon as practicable in the tunnel upon the next section of 35 miles. To work this tunnel economically, we should have at least twelve months in which to complete it.

Description of Adopted Line.

The Texas and Pacific Railway will extend from Shreveport, Louisiana, on Red river, to San Diego, California, with a branch from Marshall, Texas, to Texarkana, there connecting with the St. Louis, Iron mountain and Southern Railway, and from Texarkana through Paris and Sherman, connecting with the main line at Fort Worth.

Over this route the surveys have determined that in an engineering and commercial point of view, the line to be adopted is as follows:

Leaving Shreveport, the road runs almost due west through Caddo Parish, Louisiana, and through the counties of Harrison, Gregg, Upshur, Wood, Smith, Van Zandt, Kaufman, Dallas and Tarrant, in Texas, passing through the towns of Marshall, Hallville, Longview, Willow Springs, Glade Water, Hawkins, Minneola, Saline, Wells Point, Elmo, Terrell, Forney, Mesquite and Dallas, to Fort Worth, at the junction of the West and Clear forks of Trinity river, in Tarrant county.

This line crosses the divide between Red river and Sabine river, and runs up the valley of the Sabine, crossing it in Van Zandt county, crossing the Trinity river at Dallas, following the west fork of the Trinity to Fort Worth, distance 219 miles.

(Printed page 10.)

Fort Worth to San Diego. Commencing at Fort Worth, the line follows the valley of the Clear fork of the Trinity in a southwesterly direction to the mouth of South fork, and up the valley of South fork to its head; passing

through Weatherford, the county seat of Parker county, and thence northwest, crossing the headwaters of numerous tributaries of the Brazos, passing into Palo Pinto county about four miles from the northeast corner. It then turns a little south of west and crosses the Brazos river near the mouth of Cedar creek, and follows up the valley of Veal's creek, and across the divide into the valley of the Clear fork of the Brazos, and then following the general course of the Clear fork to the southeast extremity of the big bend of the Clear fork, about four miles southeast of Fort Griffin; thence following up the valley of Trout creek to its head and down one of the tributaries of Clear fork, it crosses Clear fork about four miles south of the north line of Shackleford county; thence almost due west, crossing California creek on the west line of the same county, and following its valley to its head, and thence in a direct line southwest, on the divide between the waters of Clear and Double mountain forks of the Brazos to a point 18 miles south of the Double mountains, a distance of 210 miles.

From this point the line runs a little south of west, crossing the headwaters of the North fork of the Colorado, and between Muchaque and Solitaire mountains to Sulphur Springs—latitude 33.30, longitude, 101.45 W. on the east border of the Staked Plains, a distance of 75 miles—thence southwest, crossing the Staked Plains to the Rio Pecos, crossing this river about 15 miles above the mouth of Toyah creek, and 54 miles below the mouth of Delaware creek, 119 miles; thence a little south of west in a very direct line to the newly-discovered pass in

the Guadaloupe mountains, known as Hurd's Pass—latitude 32.30, longitude, 104.30 W.—62 miles. This pass is about 40 miles southeast of the Guadaloupe Pass; thence northwest and parallel to the Guadaloupe range, 48 miles, to a point in Salt Lake Valley, 25 miles southwest of Guadaloupe Pass; thence almost due west, crossing the Heuca mountains, through a low pass to Fort Bliss, on the Rio Grande.

(Printed page 11.)

From there the line follows up the valley of the Rio Grande for a distance of 38 miles to near the town of Mesilla, then turning almost due west ascends to the tablelands of the Sierra Madre, which is reached in a distance of 6 miles, and on the same course, crossing the high rolling prairie of the Sierra Madre, it passes through the Florida Pass, between Fort Cummings and the Florida mountains, into the valley of the Miembres, crossing that river about 12 miles south of Ojo de Vaca (Cow Springs), and about 35 miles south of Fort Bayard, Silver City and the Lone mountain mining district.

We leave the Burro mountains on the north, the Pyramid range on the south, and passing near the Ralston silver mines we reach the valley of Playas, 125 miles west from the Rio Grande. After crossing this valley, we pass the Peloncillo, or Stein's Peak range, through a low gap about 6 miles south of Stein's Peak and the old Boundary Commission road. The line then crosses the San Simon valley in a direct course for Railroad pass, in the Chiricahiu mountains, thence southwest across the valley of Payas de los Pimos, and across the Caliuro mountains

by way of Nugent's Pass, which is north of and about 10 miles from Dragoon Pass; thence to the valley of the San Pedro, near the settlement of Tres Alamos; thence south and up the San Pedro about 5 miles; thence west to the Cunega Pass, between the Whetstone mountains on the south and the Santa Catalina mountains on the north, and 20 miles north of Fort Buchanan summit, which is the highest point between the San Pedro and the Gila; thence northwest, down the valley of the Cunega and Rillito, to near the town of Tucson, following down the valley of Santa Cruz, keeping near the old stage route via the Point of Mountains to near Desert station. Then leaving the valley of Santa Cruz, and passing north of the Picacho mountain, we again strike the valley near Picacho station, and follow it about 20 miles; thence through a valley to the Gila near Sacaton, and about 60 miles below the mouth of the San Pedro, and down the valley of the Gila, 12 miles to the Pima villages, and following the Gila to its junction with the Colorado of the West at Fort Yuma, cutting off the great bend of the Gila by a direct natural route through St. Valentine's Pass. From there the line runs in a northwesterly direction, passing to the north of the sand (printed page 12) hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this the line passes on the north margin of the Salt Lake of the Colorado desert; leaving the mud volcanoes about 5 miles to the south, and the Dos Palmos stage station about the same distance to the

north, we reach the Cabazon Valley 113 miles from Fort Yuma; thence on nearly the same course, 50 miles to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto, which is known as the Potrero (or Pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains—these plains lie between the main range and the Santa Ana range—and down the Temecula Plains to the head of Temecula canyon, and down the canyon, where the Temecula breaks through the Santa Ana range 10 miles to the open valley, striking the coast near the Santa Marguerita ranches, about 40 miles north of San Diego; thence south and down the coast on the western slope of the Solidad mountains, crossing the Solidad, San Louis Rey, San Dieguito and the ravine of La Jolla, skirting False Bay; thence to the shore of San Diego bay, and along the shore of the bay to the depot grounds of the Texas and Pacific Railway below the Pacific Steamship Company's wharf.

Distance from the Pima's Villages on the Gila river, 444.4 miles.

Fort Worth to San Diego.....1,457.64 miles.
Shreveport to San Diego.....1,676.64 miles.
Texarkana to San Diego .....1,693.63 miles.

I also offer in evidence the table of elevations, commencing with "Shreveport," on page 33, and ending with "San Diego," on page 34, as follows:

(Printed page 33.)

General Elevation (above the Sea) from Red river to San Diego, on the Line of the Texas and Pacific Railway.

	Feet above tide water.
Shreveport	204
Marshall	377
Jefferson (Jefferson branch)	226
Texarkana (Transcontinental branch)	287
Longview	342
Silver Lake	350
Divide between Sabine and Trinity rivers	529
(Printed page 34.) Dallas	481
Sherman (Transcontinental branch)	734
Fort Worth	629
Weatherford	1,000
Divide between Trinity and Brazos rivers	1,195
Valley of the Brazos	825
Staked Plains	2,850
Highest point on same	3,377
Valley of the Pecos	2,700
Hurd's Pass (Guadaloupe Mts.)	4,193
Valley west of Guadaloupe	3,640
Heuca Pass	5,027
El Paso (or Fort Bliss)	3,732
Table-land (Sierra Madre)	4,420 to 4,520

Summit of Continent	4,893
Peloncello Pass	4,339
San Simon Valley	3,562
Railroad Pass	4,388
Nugent's Pass	4,711
San Pedro river	3,429
Cunega station	4,088
Tucson	1,898
Pima villages	1,193
Fort Yuma	145
Divide between Gila and Colorado desert	437
Salt Lake (dry) in Colorado desert—below tide water	290
Cabazon Valley	998
San Gorgonio Pass	2,621
Santa Marguerita Ranches	104
San Diego (on the Pacific)	16
Tres Alamos	3,729

I also offer in evidence a portion of said report commencing on page 47 with the heading "Conclusion," and ending on page 49 before the words "land department," as follows:

(Printed page 47.)

Conclusion.

The Texas & Pacific Railway opens up to settlement a vast undeveloped agricultural and mineral region, now only unavailable from the want of the means of cheap and quick communication and transportation. It secures to the Government a lasting and permanent peace with the

hostile Indian tribes. It will bring us in direct communication with Mexico, and open up an extensive trade which has heretofore sought other countries. It is a line of even temperature—no snow, no extremes. It is the shortest railroad communication from sea to sea—1,460 miles from harbor to harbor, against 3,300 miles by any other line.

The Union Pacific is a Central Northern line, gives a great (printed page 48) advantage in trade, and access to northern cities, and is the great feeder to northern railroads.

The Texas & Pacific would become the feeder of the general system of railroads running through the south, and would bring into competition the two great systems of the continent, and bring all the means and advantages of the southern system to the development of the trade through the southern States and territories, and allow their roads to compete on equal terms for the trade of the Pacific coast and all other countries whose trade seeks its harbors.

It is the shortest way to Europe from Australia, India, China and Japan—the distance from San Diego to Nagasaki, Japan, 5,709 miles; San Diego to Shanghai, China, 6,264 miles; San Diego to Hong Kong, China, 6,850 miles; San Diego to Sydney, Australia, 15,900 miles.

To accommodate this trade, we have at San Diego a completely landlocked harbor, as safe as any in the world. Vessels drawing 26 feet of water can come alongside our wharves at all stages of water. The channel of the harbor is 12½ miles long, and about half a mile

wide, the water varying in depth from 20 to 51 feet, giving ample room for a fleet of 1,000 first-class ships to ride at anchor. It is the shortest and most direct line across the continent, is of low grades and light curvatures, and passes all the great mountain ranges to the south, or overcomes them at light grades and low altitudes, below the snow limit. It develops a vast extent of country without any natural means of communication which can be reached in no other way. It settles the Indian question, as along its line is the only territory infested by hostile bands of Indians, and dispenses with a long line of frontier defenses, and will save to the Government at least five million dollars annually, as experience has proved that a railway line through Indian territory is a fortress as well as a highway.

* * * * * * * * * * *

Upon my chiefs of divisions most of the work has devolved. They have carried out their instructions with alacrity, ability, and good judgment, and often under difficulties that would have deterred most men. They have all found a line over their respective divisions far superior to any that were supposed to exist. (Printed page 49.) Especially is this the case with the line over the Sierra Nevada mountains and the Guadaloupe range, and these were only determined after months of continued examination and reconnoissances.

Since July, 1872, the surveys have been extended from the Red river, in Texas, to the Pacific Ocean, in the general direction of the 32d parallel of latitude, exploring a country 200 miles in width, developing its resources,

bringing to light its hidden treasures, and fully demonstrating its capability for building and sustaining a railroad to the Pacific Ocean.

The country has been systematically developed. Explorations have been pushed to success, and one after another of the engineering obstacles supposed to exist to the building of the Southern Pacific Railway have been met and overcome; the route of the road has been definitely fixed, and unquestionably it is the best to be had across the continent in the zone which has been explored. I desire to extend my thanks for the courtesies and aid extended to me at all times by the military under Generals Augur and Pope, and the officers and troops have cheerfully extended us all the aid and protection we desired.

I desire to call the attention of the company to the able and effectual manner in which Mr. R. S. Hayes, engineer in charge of construction, and Messrs. Evans, Wolcott, Hurd, O'Neill and Hodges, engineers in charge of surveys, and J. M. Eddy, assistant superintendent, and the heads of departments and subordinates have performed their duties and the fidelity with which they have executed their trusts."

I also offer in evidence, on page 51, the signature, as follows: "Respectfully submitted,

G. M. DODGE,
Chief Engineer."

I also offer in evidence from the printed report, the report beginning on page 109 with the words "San Diego, Cal., Feb. 3, 1873," and ending with the words "James A. Evans, Engr. Cal. Division," on page 146, as follows:

(Printed page 109.)

San Diego, Cal., Feb. 3, 1873.

Gen. G. M. Dodge, Chief Engineer.

Dear Sir: I herewith submit a report of engineering operations conducted under my charge on the California Division of the Texas & Pacific Railway. The examinations covered by this report extend over a space of six months, from August, 1872, to January, 1873, both inclusive. A single party was placed in the field in July, but the work was only fairly commenced in August, 1872. Since then the country between the bay of San Diego and the Colorado river has been fully examined; 700 miles of line have been actually run in such a way as to give an estimate of cost, much of which has been over a country where the progress was not more than half a mile per day. In addition to this, reconnoissances have been made, distances measured, and altitudes taken over 300 miles of additional country.

For the better understanding of the work, the several lines will be designated as follows:

Line A.—Otay Valley Line.

Line B.—San Gorgonio Pass Line No. 1, via the San Diego river, Murphy's canyon, Buena Vista, S. Louis Rey, Temecula, Temescal, Riverside and San Bernardino.

Line C.—San Gorgonio Pass Line No. 2, via the coast, Temecula, Temescal, Riverside and San Bernardino.

(Printed page 110.)

Line D.—San Gorgonio Pass Line No. 3, via the coast, Temecula, Santa Gertrude canyon, and the Potrero of San Jacinto.

Line E.—San Gorgonio Pass Line No. 4, via the coast, Temecula, the Laguna, San Jacinto Valley, Box Spring canyon, Riverside and San Bernardino.

Line F.—San Gorgonio Pass Line No. 5, via the coast, Temecula, San Jacinto Plains, Box Spring canyon, Riverside and San Bernardino.

Line A.—Otay Valley Line.

This line has its initial point within the corporate limits of the city of San Diego, and on land to be used as passenger depot grounds. Passing through a portion of the city, occupied to some extent, although not interfered with, by buildings, it cuts off an arm of the bay, thereby bringing the main line within easy access of the ship channel to lands now owned in fee by the company. So much of the line, whatever course may be taken in getting away from the bay, would be common. Leaving the lands of the Texas & Pacific Railway Company, the line crosses Chollas creek near its mouth, passes through the National rancho, along one of the streets of National City as surveyed, and with easy grades, good alignment, and light work reaches the high mesa land lying between the bay and the mountains.

The section of line above described has been put in with care, and, if adopted, no further location of it will be required. It was thought best to do this, so as to be able to form an idea of how far one line would interfere with property comparatively valuable, as well as to enable the city authorities of San Diego to commence negotiations for right of way.

The line in its progress from the mesa or table-land curves to the left, entering the valley of Otay creek, the drainage of which it follows to its summit.

For a distance of 27 miles from the initial point the line is as above described on the shore of the bay, on the table-land, and in the Otay Valley. The material is generally drift or alluvium; easy to move, with the single exception that at what is known as the bend of the Otay a tunnel of 1600 feet will be necessary, as well as an expensive crossing of the stream itself.

(Printed page 111.)

The material in the tunnel is a metamorphic rock, difficult to drill, and so shattered that a tunnel through the point would very likely require lining. The heavy work here is caused by a sharp projecting spur impossible to avoid by curvature.

At this point (27 miles from zero) the character of the line changes, from the necessity we are under of availing ourselves of the side slopes of the valley to overcome elevation beyond.

This may be considered the foot of the steep gradients on the western slope of the range. From here the line is on the broken slopes of the neighboring hills. On the 31st mile a tunnel 900 feet in length will be necessary, the material in which, being granite, can be removed at less cost than the tunnel before described. Unless it should prove so fragmentary as to require lining, it will not be difficult. Nothing but an examination of the profiles can give an adequate idea of the character of the work from where we leave the valley of the creek to the

summit of this drainage. The summit, when reached, is broad and flat, making it impracticable to lower it by cutting, and so reduce the gradient.

Otay summit is the watershed between the Otay drainage and that of the Tia Juana; the Ysidoro or Cottonwood branch of which, a short distance beyond Otay summit, crosses our direction nearly at right angles, making it impossible within the limit of economy to maintain our general course. The line, therefore, hugs the broken hillside bordering the San Ysidoro canyon on the west, a distance of 6 miles, maintaining a level grade, the fall of the canyon for the distance being over 100 feet per mile; crossing the gorge 130 feet above its bed to an equally broken slope on the eastern side of the canyon, upon which slope the line continues to the mouth of Bear canyon, a tributary gorge, the general direction of which is favorable.

The distance from the crossing of the San Ysidoro to the head of Bear canyon is twelve and two-tenths miles; difference in elevation 1,371 feet. The summit of Bear canyon is not suitable for deep cutting, being broad and flat. We are, therefore, from necessity, obliged to use a grade of 116 feet per mile for the entire distance.

The slopes east of the San Ysidoro and Bear canyons are very broken. The material is granite, either solid or in loose boulders (printed page 112)of great size. The profile gives a succession of deep cuttings and high embankments. The character of the work here would make the arriving at an estimate of quantities difficult. The specifications would always be doubtful; and measurement in some sort impracticable.

The summit of Bear canyon is secondary in character, dividing the drainage of the San Ysidoro from that of Melquaty creek, both tributaries of the Tia Juana; the latter drainage being carried into the San Ysidoro some 8 miles above the mouth by means of Tecate creek. From the summit of Bear canyon easterly, a level grade is used for a distance of 100 miles, while the line is kept on the slope of the hill bordering the Melquaty valley on the north.

Some actual distance might be saved on this section at a loss of elevation and depression, and by the use of heavy gradients. It is a question, however, if operating distance could be saved. Nothing but a location could determine this. If, however, the line has any claims to the adopted one, the attempt should be made.

From the end of this level grade gradients approximating the maximum of 116 feet are used to the head of this drainage at Walker's summit, the dividing ridge between waters flowing eastward to the desert, and those flowing westward to the bay of San Diego. This summit is in no sense a pass, but the crest of the watershed. Its altitude is 3,870 feet above mean low tide; distant from the initial point 81.62 miles.

From this summit to the desert via Carrisso canyon, the descent is continuous, the work from the summit eastward differing but little in character from that west of it, until the head of Carrisso canyon is reached. This canyon is a deep, narrow gorge, the direction of which is nearly north, and parallel with the canyon of the San Ysidoro, heretofore referred to, and from which it does

not differ materially in character, save that the rock on the slopes of the Carrisso is more broken up and fragmentary, the slope steeper, and the projecting spurs sharper and more numerous. The best line we can obtain down the canyon will require, in a distance of 10 miles, eleven tunnels, aggregating in distance 6,755 lineal feet.

(Printed page 113.)

The direction of the gorge of the Carrisso being, as stated, nearly north, the first available opportunity is taken of passing through the hills to the east of it by means of a tunnel 1600 feet in length, which carries the line to the desert slope, which the line follows with variable gradients, some of which are 105 feet per mile. A distance of 31 miles from the mouth of the tunnel last referred to brings the line to the level of the desert plain.

For one-third of the distance last-named, or say 10 miles, the line passes over a smooth slope covered with drift pebbles from the hills, having a substratum of clay, desert, and sterile. The course of the line eastward is over the depression of New river, in which basin or depression the grade line falls to 37 feet below our datum line of mean low rates in the bay of San Diego.

There can be no question but that much of the country passed over by this line, "especially where the soil is of a clayey character," could, by the application of water, be made highly productive.

Some of the country west of the New river basin is covered with a light layer of shifting sand, likely to give some, but no serious trouble in operating the road. The

mode of construction here would be that of having the roadbed in embankments some two feet above the natural surface, which plan would, from necessity, be pursued here, if no shifting sand made it desirable.

From the crossing of New river (which is nothing more than back water from the Colorado in time of freshets) to the sandhills, the character of the country does not differ materially from it, except that more of the ground is covered with a scattering growth of mesquite timber, well adapted for fuel; indeed, on no part of this line can this necessary material for operating a road be had so readily or with so little cost.

The total distance from San Diego to the sand hills of the desert is 178 miles. These sand hills, which are impossible to avoid by a direct line from the Carrisso canyon, seem to be an accumulation of drifting sand carried by the prevailing winds from the upper gravelly plain to the desert. They extend from northwest to southeast. Our line via San Gorgonio Pass (printed page 114) goes to the north and barely touches them. They extend across the Mexican boundary line, increasing in altitude and width of base as we follow them from north to south.

There are two ways of avoiding them altogether: First, by changing the direction of the line from where the level plain of the desert is reached, and connecting with the line from the San Gorgonio Pass; or second, by dropping below the boundary line between the United States and Mexico. The former would lengthen the distance from San Diego to Fort Yuma 18 miles; the latter

would not increase the distance materially, but would be in foreign territory for a distance of 8 miles.

Total distance from depot grounds at San Diego to crossing of Colorado river at Fort Yuma, 203.11 miles.

Table of Grades.

	Ascending Miles.	Descending Miles.
Between 0 feet per mile and 20 feet per mile	35.29	12.39
" 20 feet per mile and 40 feet per mile	14.21	8.28
" 40 feet per mile and 60 feet per mile	9.67	2.02
" 60 feet per mile and 80 feet per mile	6.36	13.32
" 80 feet per mile and 105 feet per mile	16.86	28.64

	Ascending Miles.	Descending Miles.
Maximum of 116 feet per mile	11.68	
Level grade		44.39
Distance ascending	94.07 miles.	
" descending	64.65 "	
" level grade	44.39 "	
Total distance	203.11 miles.	

(Printed page 115.)

Estimate of Cost—Section No. 1.

From Depot Grounds to Station 908+70, Foot of Grade in the Otay Valley.

Distance 26.8 miles.

541,464	C. yards earth excavation at	$	32	$178,683 12
53,000	" " loose rock " "		1 00	53,000 00
53,000	" " solid " " "		2 25	119,250 00
17,500	" " tunneling at		14 00	245,000 00
525	" " second-class masonry at		10 00	5,250 00
995,747	feet, B. M., timber in trestles, at		50 00	49,787 35
28,070	pounds of wrought-iron bolts at		10	2,807 00
19,746	pounds of cast-iron washers at		8	1,579 68
26.8	miles superstructure—including iron, ties, laying, &c., at		13,000 00	348,400 00
40,284	lin. feet piling		50	20,142 00

26.8 miles at $38,205.00 per mile, $1,023,899.15.

Section No. 2.

From Station 908+70, Foot of Heavy Grade, to Station 4,300, in the Carriso Canyon.

Distance 81.57 Miles.

2,970,736	C. yards earth excavation at	$	30	$ 891,220 80
943,320	C. yards loose rock excavation at		1 00	943,320 00
1,907,903	C. yards solid rock excavation at		2 00	3,815,806 00
220,000	C. yards solid rock excavation at		1 75	385,000 00
116,741	C. yards tunneling at		12 00	1,400,892 00
6,156	C. yards first-class masonry, at		20 00	123,120 00
21,830	C. yards second-class masonry, at		12 00	261,960 00
600	lin. feet of truss bridging at		38 00	22,800 00
7,055,967	feet, B. M., timber in trestles, at		50 00	352,798 35
111,892	pounds wrought-iron bolts at		10	11,189 20
154,012	pounds cast-iron washers at		8	12,320 96
81.51	miles superstructure—iron, ties, track-laying, &c., at		13,000 00	1,060,410 00

81.57 miles at $113,777.00 per mile, $9,280,837.81.

(Printed page 116.)

Section No. 3.

From Station 4,300 in Carriso Canyon to Station 5,300 on the Desert.

Distance, 18.94 Miles.

1,339,850	C. yards earth excavation at.....	$	28	$375,158 00
96,073	C. yards loose rock excavation at... ..		1 00	96,073 00
692	C. yards first-class masonry at.....		20 00	13,840 00
5,092	C. yards second-class masonry at...		12 00	61,104 00
962,228	feet, B. M., timber in trestles, at.....		50 00	48,111 40
18,106	pounds wrought-iron bolts at.....		10 00	1,810 60
22,722	pounds cast-iron washers at.....		8 00	1,817 76
18.94	miles superstructure—iron, ties, track-laying, &c., at.....		13,000 00	246,220 00

18.94 miles at $44,568.00 per mile, $844,134.76.

Section No. 4.

From Station 5,300 to Colorado River at Fort Yuma.

Distance, 75.8 Miles.

1,094,215	C. yards earth excavation at.....	$	25	$273,553 75
62	C. yards second-class masonry at.....		12 00	744 00
415,676	feet, B. M., timber in trestles, at		60 00	24,940 56
8,376	lin. feet piling at.....		80	6,700 80
10,888	pounds wrought-iron bolts at		10	1,088 80
5,098	pounds cast-iron washers at..... . ..		8	407 84
75.8	miles superstructure—iron, ties, and track-laying, at.....		13,000 00	985,400 00

75.8 miles at $17,056.00 per mile, $1,292,835.75.

Summary of Cost.

Section No. 1	26.8	miles,	$1,023,899 15
" " 2	81.57	"	9,280,837 31
" " 3	18.94	"	644,134 76
" " 4	75.8	"	1,292,835 75
203.11 miles at $61,256.00			$12,441,706 97

Total amount of elevation	4,580.8 feet.
" " " depression	4,452.1 "
" " " curvature	17,864 degrees.

(Printed page 117.)

The foregoing estimate is based upon a width of roadbed of 16 feet in cuttings and 12 feet where the work is on embankment. In the side hill work, more especially in the San Ysidoro and Carrisso canyons, where the deep gulches occur, the estimate is based upon the supposition that we take what excavation there may be in the adjacent cuttings to form a base for trestle-work of timber. In a few cases an amount of borrowed material is estimated, so as to bring the length of posts within 100 feet. In one case, crossing the Cottonwood, or San Ysidoro, four spans of truss bridging have been estimated, making 600 lineal feet. The mode of estimating this line, and the same is true of all the lines, has been this: The line has been estimated in embankment. Wherever the material in the excavation is shown to be beyond a reasonable hall (1,000 feet), that quantity has been added. All cuttings have been classified. On the rocky sections of the work, the foot of the heavy gradient, twenty-seven miles from the initial point, the material in excavation has been assumed

to be twenty-five per cent earth, twenty-five per cent loose rock, and fifty per cent solid rock. This classification is believed to be tolerably correct, so far as the cuttings are concerned.

The material which it is necessary to obtain for road-bed outside of the cuts proper, technically termed "borrowed," is assumed to be earth; it forms a considerable part of what is termed "earth excavation" in the estimates.

The character of the mountain work and its material on this line is such that it may be difficult to obtain the quantity of earth for the purpose. A large quantity of loose rock may have to be obtained, which would increase the aggregate of the estimate and the cost of the work.

The amount of curvature on this line, 17,864 degrees, is excessive, indicating of itself a very broken country. It will be readily seen, if the total curvature be divided or distributed over that part of the line where it occurs, viz., between the foot of the grade and where the line leaves Carrisso canyon, a distance of 83 miles, it will be found to give a curve of 4 degrees per station; radius, 1432 feet for that entire distance. Curves of eight degrees and ten degrees will be found necessary on this line in many places, as in Carrisso canyon and also in (printed page 118) the San Ysidoro. A lateral shift of a few feet would place the line in heavy work, in some cases making a difference of eighty or one hundred feet in the altitude. Nothing short of an actual inspection of the line on the ground can convey an adequate idea of the character of the work. It is safe to assume that no bids by the yard for doing

much of this work would be had. There would always be a doubt as to classification and a difficulty in holding material once disturbed in its place.

In consequence of the rocky character of the mountain section of this line, the grade line has been thrown out of cutting as much as a due regard for economy will warrant; the embankments are therefore heavier to some extent. Much of the heavy embankment is replaced by timber, as is evidenced by the large amount of that material provided for in the estimate.

San Gorgonio Pass Line.

As on the western slope we have several approaches to this pass, it will be necessary to institute a comparison between them, so as to arrive at the best line as to cost of construction and economy of operating.

What is designated in the index as San Gorgonio Pass Line No. 1 starts from the so-called depot grounds, at the foot of Spring street, San Diego, having a common starting point with the Otay Valley Line. At old San Diego distant from the initial point 2.65 miles, we have the starting point of San Gorgonio Pass Line No. 2; Line No. 1 following the San Diego river for a short distance, thence up Murphy's canyon, keeping in the interior crossing the drainage of the Soledad, Penasquitas, San Diegito and San Luis Rey, dropping into the valley of Temecula creek.

The latter, or Line No. 2, from its diverging point at old San Diego, hugs the coast as far as the Santa Marguerita Rancho, where the Temecula creek finds its way to the

sea, up the valley of which it runs, connecting with Line No. 1.

In the comparison we may consider the distance of 2.65 miles as common to both lines.

Distance, Line No. 1	64.5 miles
Distance, Line No. 2	59.3 miles
Elevation, Line No. 1	2,020.6 feet
Elevation, Line No. 2	903.6 feet
Depression, Line No. 1	1,624.7 feet
Depression, Line No. 2	521.9 feet

It will be seen from the above that distance is in favor of the coast line—elevation and depression largely in favor of it; and, when we take into account that much of the additional elevation and depression on the interior line is surmounted by means of heavy grades of 105 feet to the mile, whereas on the coast line no gradient of more than 63 feet per mile is necessary, the comparison is greatly in favor of the coast line. To make the comparison more complete, the following estimate of both sections is submitted:

Section of Line No. 1.—Interior Line.

Distance, 64.5 Miles.

1,369,216	C. yards earth excavation at	$	30	$410,764 80
315,681	C. yards loose rock excavation at		1 00	315,681 00
411,541	C. yards solid rock excavation at		2 00	823,082 00
14,040	C. yards tunneling at		12 00	168,480 00
5,168	lin. feet piling at		60	3,100 80
3,709	C. yards second-class masonry at		12 00	44,508 00
1,418,967	feet, B. M., timber in trestles, at		50 00	70,948 35
31,615	lbs. wrought-iron bolts at		10	3,161 50
25,674	lbs. cast-iron washers at		8	2,053 92
64.5	miles of superstructure—iron, ties and track-laying, at		13,000 00	838,500 00

64.5 miles at $41,554 per mile, $2,680,280.37.

Estimate of Part of Line No. 2.—Coast Line.

Distance, 59.3 Miles.

1,782,891	C. yards earth excavation at	$	30	$534,867 30
60,721	C. yards solid rock excavation at		2 00	121,442 00
5,926	C. yards tunneling excavation at		10 00	59,260 00
2,900	C. yards first-class masonry at		20 00	58,000 00
2,000	C. yards second-class masonry at		12 00	24,000 00
77,714	lin. feet piling at		50	38,857 00
1,840,270	feet, B. M., timber in trestles, at		50 00	92,013 50
63,114	lbs. of wrought-iron bolts at		10	6,311 40
31,248	lbs. of cast-iron washers at		8	2,499 84
2,250	lin. feet of truss bridging at		38 00	85,500 00
59.3	miles of superstructure—iron ties, &c., at		1,300 00	770,900 00

59.3 miles at $30,247 per mile, $1,793,651.04.

(Printed page 120.)

It is possible that some of the material classified above on "sec. of line No. 1" may prove to be soft, loose rock. With our present arrangements of grades, if so, it will not be difficult to lift our grade line out of it. The character of the work along the coast is so favorable that the price attached (30 cents per yard) is high, and will go far towards remedying any error in classification.

As there is a difference of five and two-tenths miles in distance, a large difference in cost of construction, as well as in cost of operating, all in favor of the coast line, we may discard the interior line altogether. From the convergence of the two sections last referred to and compared, the line continues up the narrow canyon of Temecula creek for a distance of 7.26 miles, which distance is necessarily common to all lines approaching the San Gorgonio Pass from the bay of San Diego. A further description of the canyon will be given hereafter.

At the head of Temecula canyon we find the second divergent point of lines Nos. 1 and 2, the first going by way of the Laguna, Temecula creek, Riverside and San Bernardino to the San Gorgonio Pass, and the latter by a direct line via the Potrero of San Jacinto.

Line B.—"Gorgonio Pass Line No. 1," being disposed of by the comparison already made, we will now consider Line C, "Gorgonio Pass Line No. 2," as from the head of Temecula canyon, B and C are common.

Lines E and F are but modifications of Line C, the first (E) diverging from it at the Laguna and connecting again near Riverside, in the Santa Anna valley; the latter (F)

diverging at the head of Temecula canyon, occupying for a short distance common ground with the direct line (D), and connecting with Line E on the San Jacinto plains, from whence E and F are identical to point of connection with line C, near Riverside.

It will be necessary, therefore, to compare, first, Lines E and F; secondly, to compare the best of the two with Line C.

(Printed page 121.)

Distances are as follows:

Head of Temecula conyon to Riverside, Line E, 47.18 miles.

Head of Temecula canyon to Riverside, Line F, 43.61 miles.

	Line E.	Line F.
Total elevation	678.5 feet	679.3 feet
Total depression	705 feet	753.7 feet

Estimate of Line E.

From Head of Temecula Canyon to Riverside.

Distance, 47.18 Miles.

357,991	C. yards earth excavation at.....	$ 30	$107,397 30
73,871	" " loose rock " ".....	1 00	73,871 00
147,742	" " solid " " ".....	2 00	295,484 00
883	" " second-class masonry at.....	12 00	10,596 00
728	lin. feet piling at.....	60	436 80
552,618	feet, B. M., timber in trestles, at.....	50 00	27,630 90
12,759	pounds wrought-iron bolts at.....	10	1,275 90
6,756	pounds cast-iron washers at.....	8	405 36
47.18	miles superstructure—iron, ties and track-laying, at	13,000 00	613,340 00

47.18 miles at $23,960.00 per mile, $1,130,437.26.

Estimate of Line F.

From Head of Temecula Canyon to Riverside.

Distance, 43.61 Miles.

420,531	C. yards earth excavation at	$ 30	$126,159 30
75,475	" " loose rock " "	1 00	75,425 00
150,856	" " solid " " "	2 00	301,712 00
1,699	" " second-class masonry at	12 00	20,388 00
508,702	feet, B. M., timber in trestles, at	50 00	25,435 10
12,022	pounds wrought-iron bolts at	10	1,202 20
6,528	" cast-iron washers at	8	522 24
43.61	miles superstructure—iron, ties and track-laying, at	13,000 00	566,930 00

43.61 miles at $25,633.00 per mile, $1,117,773.64.

(Printed page 122.)

Estimate of Line C.

From Head of Temecula Canyon to near Riverside.

Distance, 53.66 Miles.

301,808	C. yards earth excavation at	$ 30	$90,542 40
48,362	" " loose rock " "	1 00	48,362 00
400	" " second-class masonry at	12 00	4,800 00
3,128	lin. feet piling at	60	1,876 80
340,284	feet, B. M., timber in trestles, at	50 00	17,014 20
8,831	pounds wrought-iron bolts at	10	883 10
5,292	" cast-iron washers at	8	423 36
53.66	miles superstructure—iron, ties and track-laying, at	13,000 00	687,580 00

53.66 miles at $15,870.00 per mile, $851,481.86.

	Line F.	Line C.
Total elevation	679.3 feet.	732.35 feet.
" depression	753.7 "	715.05 "

The comparison here again resolves itself into one of distance and cost, the elevation and depression on one line approaching that of the other very nearly. If the grades were equated on both lines, the distance of 43.61 miles length of line F would be made to approach that of Line C, caused by the heavier gradients of the former.

The advantages of this section of Line C over the shorter line are, as seen, a difference in cost of $266,292.00, and the better opportunity it offers for northern connections, as where the line deflects to the right out of the Temescal Valley the distance to Los Angeles cannot be more than 37 miles. Either line would open up the country bordering the Santa Ana river, and that of San Bernardino.

We will now compare Lines C and D from their divergence at the head of Temecula canyon to where they converge in the pass of San Gorgonio.

Distance from Temecula canyon to Pass Line C, 78.39 miles.

Distance from Temecula canyon to Pass Line D, 40 miles.

	Line C.	Line D.
Total elevations	2,414.35 feet	1,774.4 feet
Total depressions . . .	755.05 feet	77.9 feet

(Printed page 123.)

Estimate of Line C.

From Head of Temecula Canyon to San Gorgonio Pass.

Distance, 78.39 Miles.

531,808	C. yards earth excavation at	$	30	$ 159,542 40
95,665	" " loose rock " "		1 00	95,665 00
345	" " second-class masonry at		12 00	4,140 00
3,128	lin. feet piling at		60	1,876 80
47,258	feet, B. M., timber in trestles, at		50 00	27,362 90
13,912	pounds wrought-iron bolts at		10	1,391 20
8,812	" cast-iron washers at		8	684 96
78.39	miles superstructure—iron, ties and track-laying, at		13,000 00	1,019,070 00

78.39 miles at $16,708.00 per mile, $1,309,733.26.

NOTE.—The additional elevation and depression on this line is caused by the secondary summit between the Temecula and Temescal.

Estimate of Line D.

From Head of Temecula Canyon to San Gorgonio Pass.

Distance, 40 Miles.

839,381	C. yards earth excavation at	$	30	$251,814 80
95,968	" " loose rock " "		1 00	95,968 00
191,939	" " solid " " "		2 00	383,878 00
6,498	" " tunneling at		10 00	64,980 00
2,724	" " first-class masonry at		20 00	54,480 00
2,574	" " second-class " "		12 00	30,888 00
350	lin. feet truss bridging at		38 00	13,300 00
1,204,000	feet, B. M., timber in trestles, at		50 00	60,200 00
24,623	pounds wrought-iron bolts at		10	2,462 30
17,660	" cast-iron washers "		8	1,412 80
40	miles superstructure—iron, ties and track-laying, at		13,000 00	520,000 00

40 miles at $36,985.00 per mile, $1,479,383.90.

The aggregate cost of the sections last considered differ $169,650. To offset this, we have the shorter distance on Line D, with a much better arrangement of grades, as our ascent is continuous from the head of Temecula canyon to the pass; whereas, on Line C, we make the subsidiary summit between the Temecula waters and those of Santa Anna creek via the Temescal.

(Printed page 124.)

If grades were equated, the difference in operating distance would be further increased. Throwing aside whatever advantage Line C may have in the matter of future connections, we will be quite safe in assuming Line D to be the best in an engineering point of view.

It will be understood that all the lines via Gorgonio Pass have a common extension from the pass to the Colorado river.

I shall now give an estimate of the cost of Line D from the initial point to the crossing of the Colorado river. Total distance from initial point in San Diego to the crossing of Colorado river at Yuma, 270.34 miles.

Total amount of elevation .....4,138.7 feet
Total amount of depression.....3,995.9 feet

Table of Grades.

	Ascending.	Descending.
Between 0 feet and 20 feet per mile.....	63.26	43.65
" 20 " " 40 " " "	32.27	20.30
" 40 " " 60 " " "	10.20	13.85
" 60 " " 80 " " "	7.73	9.62
" 80 " " 105 " " "	13.79	14.65
Level.....	.....	41.02
Total.....		270.34
Maximum grade of 105 feet per mile.....	9.83	6.37

Total amount of curvature 6,354 degrees.

Estimate, Section No. 1.

From Depot Grounds via the Coast to Head of Temecula Canyon.

Distance, 67.08 Miles.

1,812,195	C. yards earth excavation at.....	$ 30	$543,658 50
165,689	" " solid rock " ".....	2 00	331,378 00
8,122	" " tunneling at.....	10 00	81,220 00
2,900	" " first-class masonry at.....	20 00	58,000 00
2,932	" " second-class " ".....	12 00	35,184 00
15,000	" " slope wall at.....	5 00	75,000 00
2,250	lin. feet truss bridging at.....	38 00	85,500 00
77,714	" " piling at.....	50	38,857 00
2,356,908	feet, B. M., timber in trestles, at.....	50 00	117,845 40
74,749	pounds wrought-iron bolts at.....	10	7,474 90
46,434	pounds cast-iron washers at.....	8	3,714 72
67.08	miles superstructure—iron, ties, and track-laying, at.....	13,000 00	872,040 00

67.08 miles at $33,540.00 per mile, $2,249,872.52.

(Printed page 125.)

Estimate. Section No. 2.

Head of Temecula Canyon to San Gorgonio Pass.

Distance, 39.98 Miles.

839,381	C. yards earth excavation at.....	30	$251,814 30
95,968	" " loose rock " ".....	1 00	95,968 00
191,939	" " solid " " ".....	1 75	336,893 25
6,498	" " tunneling at.....	10 00	64,980 00
2,724	" " first-class masonry at.....	20 00	54,480 00
2,574	" " second-class " ".....	12 00	30,888 00
350	lin. feet truss bridging at.....	38 00	13,300 00
1,204,000	feet, B. M., timber in trestles, at.....	50 00	72,240 00
24,623	pounds wrought-iron bolts at.....	10	2,462 30
17,660	" cast-iron washers at.....	8	1,412 80
39.98	miles superstructure—iron, ties, and track, at.....	13,000 00	519,740 00

39.98 miles at $36,098.00 per mile, $1,443,178.65.

Estimate, Section No. 3.

San Gorgonio Pass to Fort Yuma.

Distance, 163.28 Miles.

880,598	C. yards earth excavation at.....	$ 30	$264,179 40
51,000	" " loose rock " ".....	1 00	51,000 00
21,000	" " solid " " ".....	2 00	42,000 00
1,320	" " second-class masonry at.....	10 00	13,200 00
4,800	" " slope wall at.....	5 00	24,000 00
53,650	lin. feet piling at.....	70	37,555 00
20,810	pounds wrought-iron bolts at.....	12	2,497 20
9,845	pounds cast-iron washers at.....	8	984 50
668,078	feet, B. M., timber in trestles, at.....	70 00	46,765 46
163.28	miles superstructure—iron, ties and track, at.....	13,000 00	2,122,640 00

163.28 miles at $15,953.00 per mile, $2,604,821.56.

Summary.

Section No. 1	67.08 miles.	$2,249,872 52
" " 2	39.98 "	1,443,178 65
" " 3	163.28 "	2,604,821 56
$23,296.00 per mile	270.34 "	$6,297,872 73

We have now a full estimate of costs, distances, table of grades, etc., on Line A, "Otay Valley Line," and on Line D, which has proved to be the best approach to the San Gorgonio Pass from the bay of San Diego, and can now institute a comparison between them:

(Printed page 126.)

Comparison.

	Line A.	Line D.
Distance	203.11 miles.	270.34 miles.
Elevation	4,580.8 feet.	4,138.7 feet.
Depression	4,452.1 feet.	3,995.9 feet.
Curvature	17.864 degrees.	6.354 degrees.
Cost per mile	$61,256 00	$23,296 00
Total cost	$12,441,706 97	$6,297,872 73

Table of Grades—Line A.

	Ascending Miles.	Descending Miles.
Between 0 feet and 20 feet per mile.....	35.29	12.39
" 20 " " 40 " " "	14.21	8.28
" 40 " " 60 " " "	9.67	2.02
" 60 " " 80 " " "	6.36	13.32
" 80 " " 105 " " "	16.86	28.64
116 " " "	11.68	
Level.....	.....	44.39
Total..... 203.11 miles.		

Table of Grades—Line D.

	Ascending Miles.	Descending Miles.
Between 0 feet and 20 feet per mile.....	63.26	43.65
" 20 " " 40 " " "	32.27	20.30
" 40 " " 60 " " "	10.20	13.85
" 60 " " 80 " " "	7.73	9.62
" 80 " " 105 " " "	13.79	14.65
105 " " "	9.83	6.37
Level.....	.....	41.02
Total..... 270.34 miles.		

It will be seen from the preceding tables that only in the matter of distance has the Otay Valley Line (A) any superiority over the San Gorgonio Pass Line (D). This is more in seeming than in reality, being more than neutralized by the heavy gradients, additional elevations, and excessive curvatures of the Otay Valley line.

If we take an engine weighing 30 net tons, all of which is placed on the drivers, having cylinders 16 inches in diameter, with a stroke of 22 inches, driving-wheels 60 inches in diameter, working with an effective pressure of 105 pounds per square inch of piston, we have a tractive force.

$$\frac{16 \times 16 \times 22 \times 105 — 9856 \text{ lbs.}}{60}$$

The opposing force can be resolved into friction of engine, tender, and cars, resistance of gravity on inclinations and curvatures. We will assume friction of engine and tender to be 350 pounds; friction of cars, "a mean of several experiments," to be 6 pounds per ton. Resistance due to gravity—the formula:

$$\frac{W \times G}{5280}$$

(W—weight in pounds. G—grade in feet per mile.)

With the data assumed, we find that the engine will move on level grade 1,584 tons.

On a grade of 15 feet per mile.....820 tons
On a grade of 30 feet per mile.....546 tons
On a grade of 50 feet per mile.....371 tons
On a grade of 70 feet per mile.....293 tons
On a grade of 92½ feet per mile.....222 tons
On a grade of 116 feet per mile.....182 tons

We find, therefore, that a grade of

15 feet per mile for 1 mile equals—1.93 miles of level
30 feet per mile for 1 mile equals—2.9 miles of level
50 feet per mile for 1 mile equals—4.3 miles of level
70 feet per mile for 1 mile equals—5.4 miles of level
92½ feet per mile for 1 mile equals—7.1 miles of level
116 feet per mile for 1 mile equals—8.7 miles of level

If we assume the tonnage from east to west is equal to that from west to east, and apply the ratio, we find the 203.11 miles of the Otay Valley Line to be equal to 782.78 miles of straight level line. Taking the curvature, 17,864 degrees, and resolving it into a three-degree curve, equal to a grade of seven and one-half feet per mile, we have an additional length of level line of 146.64 miles, making in the aggregate, 929.42 miles.

(Printed page 128.)

Applying the same process to the San Gorgonio Pass Line (D), we find the 270.34 miles to equal 827.82 miles of level line. Taking, as in the last case, the curvature, and treating the 6,354 degrees in the same manner, we have an additional distance equivalent to a level line of 52 miles, a total of 879.82 miles, or forty-nine and six-tenths miles in favor of the San Gorgonio Pass Line (D).

It may be stated, further, that the method used of reducing the curvatures as above is largely in favor of the Otay Valley Line, as much of it would have to be used in six, eight, and ten degree curves, which, unfortunately, would occur on its heaviest grades.

No distance can be saved in location on the Otay Valley Line; but, rather, as already noticed, an additional dis-

tance of 18 miles would have to be made to avoid the sand hills of the desert.

A distance equal to two miles can be saved in location on Line D, as well as a saving of 100 feet in elevations. This was caused by the manner of making connection of Line D with Line C in the Gorgonio Pass, it is quite evident from an inspection of the map.

San Gorgonio Pass Line (D).

For purpose of description, this line may be conveniently divided into three sections:

First.—From the initial point in San Diego along the coast to the Rancho Santa Marguerita.

Second.—From the Rancho Santa Marguerita to San Gorgonio Pass.

Third.—From the San Gorgonio Pass to the crossing of the Colorado river at Fort Yuma.

Section 1.

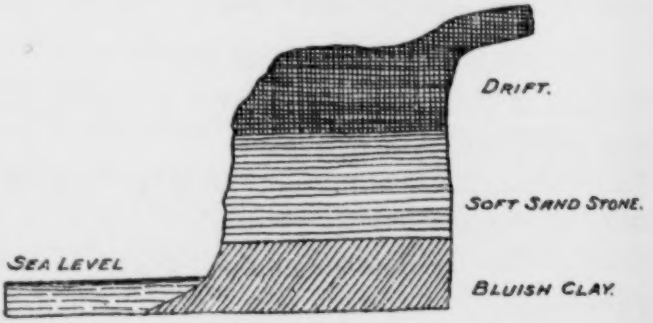
The initial point, as before stated, is identical with the zero of the Otay Valley Line. It passes along the shore of San Diego bay, with a general direction of N. N. W. to False bay, the channel of which it crosses where it is narrow and general depth of water slight, to the western slope of the Soledad mountains, continuing along that slope with easy grades and light work to the depression of La Jolla, a small ravine debouching directly to the ocean.

(Printed page 129.)

From this ravine of La Jolla to the mouth of Soledad creek, a distance of five and four-tenths miles, the break-

ers wash the base of a cliff. The Soledad mountain putting out a spur seaward for the whole distance, the heavy work on the coast line is mostly confined to this section.

The cliff presents nearly this profile:



Of the 1,782,891 cubic yards of material on this section, full 50 per cent is chargeable to this distance of less than five and a half miles. It is believed that a better arrangement of grade can be adopted on location than that I have used to make the estimate upon, and a saving made in quantities thereby.

From the vicinity of the Soledad to where the line deflects to the right, entering the Santa Marguerita Valley the country is favorable in many places; the cliff-like character of the country ceases, being replaced by a slope sufficiently flat so that the line can be placed upon its face without danger, or the moving of much material; and, again, where cliffs do occur, they are surmounted by flat table-lands easy of access, and conforming very nearly to a practicable grade.

Some elevation is lost from the necessity we are under of dropping into the valleys, viz., the La Jolla, Soledad, San Diegat, San Louis Rey, etc.

The maximum grade on this section will not exceed 60 feet per mile.

(Printed page 130.)

Section No. 2.

The distance from the Santa Marguerita valley to Los Angeles, via San Juan Capistrano and *Atahein* is estimated to be 74 miles, and the character of the country quite favorable for a railway.

From the Santa Marguerita valley, our line enters the canyon of Temecula creek. The initial point of this section (No. 2) may be considered the foot of steep grade on the San Gorgonio Pass Lines. The canyon is 10 miles in length, and is caused by the breaking through of the drainage of the Temecula basin through the Santa Ana mountains. The gorge is quite narrow in places; in seasons of freshet, the narrow channel being occupied solely by the water, as evidenced by marks on the rocks bordering the stream. A mode of construction interfering as little as possible with the waterway will have to be adopted. A reference to the estimates will show a liberal quantity of slope wall masonry provided for this part of the line.

The amount of work in the canyon is not excessive. The material will prove to be nearly all rock, and it has been so estimated. The grades are not as heavy as is usual in places of similar character, the maximum be-

ing 100 feet per mile for two miles of the distance through the canyon.

After leaving the gorge, the line crosses the open plain of Temecula, from whence it takes a course directly for the pass of San Gorgonio. This Temecula plain is an open valley between the main range and the Santa Ana mountains. The Temecula plain and the San Jacinto plain, both of which our line crosses, occupy the interval between the slope of the San Jacinto mountains and the secondary range or spur, called the Santa Ana mountains. The direction of the depression of the Temecula plain is northwest; estimated distance to Los Angeles, eighty miles; all of which is over a favorable country. Forty miles of it would be up a tributary of the Temecula and down the Temescal creek, the same ground as that occupied by our San Gorgonio Pass Line C.

From the head of Temecula canyon, the line is everything that can be desired for a distance of 24.81 miles, which takes (Printed page 131) in the slope of the Temecula basin and San Jacinto plain; from thence we follow up a tributary of San Jacinto creek to what is known as the Potrero. It is on this section that most of our heavy gradients of 105 feet per mile occur, as well as the greater part of our rock work and curvature.

This Potrero, or "pocket," opens out into the pass of San Gorgonio. A reference to the map will show that Line D tends to the left here, whereas it should bear to the right; this was done for the purpose of connection with the zero of a line starting from the pass. As a consequence, some two miles of distance is seemingly sacri-

ficed, and about 100 feet of elevation. The altitude of this, the best defined of all mountain passes, is 2,621 feet for line approaching it from San Bernardino, and 2,520 for a line via the Potrero. This seeming discrepancy is caused by the pass being triangular, having a drainage eastward to the desert, westward to the Santa Ana river, and southward to the San Jacinto. The trend of the summit is, therefore, diagonally across the broad plain of the pass, dropping off in elevation as the crest is followed southeasterly, which will readily account for the difference of 100 feet in favor of Line D via the Potrero of San Jacinto.

It is somewhat remarkable that this, the lowest of all the passes in the range, should be flanked by the highest mountains, having the high peak of San Bernardino to the north and that of San Jacinto, sometimes called San Gorgonio, to the south of it.

Section No. 3.

From the summit of San Gorgonio Pass, the line commences at once the descent towards the desert. Our profile shows light work, with maximum grades of 105 feet per mile, descending, until the mouth of Coahuila valley and the plain of the desert is reached. The grades down this slope are valuable and undulating, a constant descent being used. By increasing work and using a uniform grade a lower rate may be had. This would necessitate a closer adhering to the lateral slopes of the valley, and would increase quantities. As this is a part of the line not examined by myself personally, attention is

called to the accompanying report of Mr. J. U. Crawford, the assistant engineer, who made the survey:

(Printed page 132.)

San Diego, February 5th, 1873.

Jas. A. Evans, Esq., Eng'r Cal. Div. T. & P. Railway.

Dear Sir: I have the honor to report that on the 7th day of October, A. D. 1872, the corps of engineers under my charge began our exploration at the summit of the divide in San Gorgonio Pass. We found the summit to be a broad, triangular one, approached by three separate and distinct drainages—one from the west via the San Temotes canyon, a tributary of the Santa Ana river; another from the south via the Potrero canyon, a feeder of the San Jacinto; and a third one from the east via the San Gorgonio canyon, which unites with the White river drainage. These several systems, forking at their heads into innumerable avogos and washes, made the establishing of the most advantageous summit a matter of some difficulty, and one only to be finally determined upon by the development of the ground by cross levels. This has been successfully accomplished. We commenced by laying a line in an easterly direction, down the San Gorgonio canyon in the direction of Whitewater, adhering mainly to the bottom and northern slope of the valley, and obtaining most satisfactory results as to the cost of construction, alignments and gradients.

I found the soil generally to be mixed with boulders and covered with a close undergrowth of cactus and catclaw brush, among which cattle can find some little pas-

ture. The side hill, for the greater part, is an even slope, broken occasionally by shallow cross drainage. Some 2¼ miles to the north of where our line crosses the summit lies a ranch owned by Dr. Edgar. This is a well watered and exceedingly fertile estate, prolific in fruit and vines; a fine quality of wine is made at this place and bears the name of the summit. At this point, and adjacent to our line, are some never failing springs, which could easily be made available. Some 5¼ miles east of the summit our line passes 2½ miles from Gelman's ranch and Stage station, at which point a fine running spring would furnish an abundant supply of water, which Gelman freely tenders to the company in the event of their locating near them. Vandeverter's ranch is situated twelve miles from the summit and a mile north of (Printed page 133) the line. Here, also, water can be readily brought to the line. Further on, nineteen miles from the summit, we pass Whitewater Stage station, leaving it 1¼ miles to the north. Here we also find water in abundance. In this case, as is also the same with the others, the spring has a good head, and would be self-feeding to a height of fifty feet above the track.

Throughout the San Gorgonio Pass we found any amount of coarse granite rock, suitable for building masonry; while the sides and top of the San Jacinto mountains, and the ravines which cut deep into the sides of the San Bernardino mountains, are covered with a thick growth of pine, cedar, and oak, which is visible from the line, though apparently rather inaccessible. Upon our arrival at Whitewater station, I discontinued the sur-

vey of the line for the time being, and for a time operated on the western slope in the direction of Temecula, until the 27th day of November, 1872, when the line was again resumed, and pushed on past White river, where I found, for this season of the year, an unlimited supply of water fed from the mountains; when our party passed about midday it was running briskly. Our teams went on about three miles, skirting the stream, and pitched camp upon its border. They then began to fill the water barrels of the outfit, when suddenly the stream commenced to die away and sink from their view; so much so that, notwithstanding they closed it up, the party fared poorly for water that night; however, in the morning it was running briskly again. This, however, only occurs when it leaves the side hill and debouches upon the broad sandy expanse of the Coahuila Valley.

From this point as far as the Cabazon valley we passed through an arid, sandy, desert region, with no vegetation, save an occasional greenwood bush. Avoiding the sand hills, which laid for the most part in a ridge to the south of us, we laid a very direct line, without encountering any obstacles to cheap and rapid construction, to the Cabazon valley, which we entered some fifty miles southeast from the summit. Here we found the soil to have changed to a rich sandy loam, susceptible of successful cultivation by the aid of irrigation. There appears to be water in abundance, as wherever the Indians have dug for it their efforts have been (Printed page 134) rewarded, they always finding it within ten or fifteen feet of the surface.

The whole surface of this valley is covered with a thick growth of mesquite and arrow weed, which in a great measure protects it from the baneful influence of the sand storms which are prevalent here.

The Conia tribe of Indians live in this valley. They numbered some 1,700 souls when the last census was taken, but have since become reduced in numbers. They are a stalwart, hearty set of men, and subsist principally upon the mesquite bean, and the small game they are able to kill with their arrows, in the use of which they are exceedingly expert.

After leaving this valley, the line passes below tide level, and crosses the northern extremity of the Great Salt Lake of the Colorado desert. At the place of our crossing we did not strike water, but skirted it, as the mud was deep and tenacious; after which we crossed a large alkaline deposit, upon large blocks of almost pure salt, from 4 to 6 feet square and 8 to 10 inches in thickness, tassellated like a pavement, and almost correspondingly solid, which passed, we began to ascend, and traversing the southern projection of what had apparently been in ages remote a submerged island of disintegrated sands, stones, shells, a large deposit of gypsum and laminated mica. The slope was cut up in places by subsequent washes and drainage, and was completely bare of vegetation; to our north, and crossing this island, towered abruptly a formidable-looking mass—at a distance it resembled the ruins of some dismantled fortress; a close inspection proved it to be a formation of red sandstone rock, evidently the pinnacle around which, in an-

cient days, the mighty Pacific had boiled and surged; the restless waves had washed great caverns in the very heart of the rock, until they resembled the massive portals of some grim castle. So large were these openings, that into one of them I readily rode my horse. This formation is a silent witness to the fact that in days gone by the Pacific claimed all of this country as its own, and is almost the counterpart of the celebrated La Jolla caverns north of San Diego.

Seventy miles from the summit, and 4 miles to the north of us, is the Dos Palmos stage station, upon the line of (Printed page 135) the Arizona mail route. At this place there are springs both saline and sulphurous, quite warm, and excellent to bathe in, but very poor as a beverage. Six miles further to the northeast of the stage road brings us to Brown's Gap.

The altitude is as yet undetermined, but, in approaching it from the direction of Dos Palmos, the indications are that a line could be obtained upon an unbroken, sustaining side hill. Ninety-four miles from the summit, and 4 or 5 miles to the south, we pass the mud volcanoes, 5 in number. They are found in eruption, alternately, and intermittently a cloud of white vapor like smoke rose out from their craters, and the constant deposit of material expelled forms, in time, miniature peaks from 30 to over one hundred feet in height. Want of time on my part precluded the possibility of a closer investigation of this subject.

Since leaving Cabajou valley, our line has been laid over a dreary, arid waste, not a vestige of either animal

or vegetable life; the soil either of a fine alkaline or sandy nature, cut by a drainage which looks in places formidable, but, when it is considered how dry and light the dust is, and that the whole surface of the country seems to slide like quicksand mixed with water, and at the slightest impediment washes for itself a new channel through the yielding material, a closer estimate of the requisite allowance necessary for proper drainage can be obtained. Across this desert there is no fresh water after leaving Cabajou; all of the springs are strongly impregnated with salt or sulphur. In order to obtain a supply of fresh water, either artesian wells must be bored or a condenser used.

The water at Dos Palmos is used by both men and animals, and is much more palatable than that at Fink's Springs, which is exceedingly nauseous, but would probably sustain life.

As is seen by the profile, the line passes for a considerable distance below sea level. In addition, it evidently passes across the dry bed of a salt laguna which receives the surface drainage from a large scope of territory, without having any visible outlet. In seasons when there occurs an unusual rainfall, this basin is liable to fill up more or less. I inquired carefully into this matter, and from the best information I could obtain, I (Printed page 136) judge the limits of its rise to be within 5 feet vertical; certain it is, that the stage trail between Dos Palmos and Toros crosses it in the vicinity of the lowest portion, and has never yet been interfered with by overflow. Apart from this, however, it would probably be advantageous to locate the line from Cabajou Valley via Palma Soler,

Dos Palmos and Fink's Springs, clinging to the side hill, which is even and seems to invite and aim to maintain a level grade to connect with the line at the north end of the Sand Hill range at Sta. 6,000, which is a point we will have to make. This will throw out a rise and fall of 250 feet, but will increase the cost, curvature, and length of the line somewhat. After turning the point of the sand hills near Monmouth Tank, our line is laid almost direct to Yuma through a thick growth of palo verde, ironwood and mesquite, all dwarfed, bushy trees suitable for firewood.

In this neighborhood we also find an abundance of grass, which is quite green, and grows in tufts or bunches. This cattle eat with avidity. The formation of the ground is an almost level mesa of stony material—a natural ballast, firmly compacted. The drainage is very light and tends to the south; it seems to sink before reaching the sand hills, which block our course in that direction, rising to the proportions of a formidable-looking ridge, 150 feet high.

This valley will eventually make fine grazing land if a supply of water can be obtained. There is not a spring or well in it, save the two natural reservoirs, Monmouth and Nigger Tanks, which are situated near the base of the hills, and are simply accumulations of rain water, caught in the bottom of small scoured out ravines, and is entirely unreliable.

Some few years since the Government built a corral and started to sink a well about the center of this valley. The latter undertaking was abandoned at a depth of 30

feet without achieving any results. I am, however, sanguine that a good supply of artesian water can be had by sinking to a moderate depth.

The only obstacle we encountered between this valley and Fort Yuma was the descent from the mesa to the Colorado river bottom; this, however, was successfully accomplished by the use of a moderate grade, and crossing these alluvial flats (printed p. 137) we reached Yuma upon the morning of the 17th of December, 1872, having traversed 146 miles in 18 working days.

I take this opportunity of bearing testimony to the valuable assistance which I have received from my able assistants, Messrs. J. E. Jackson and John A. Evans, and to the uniform energy and cheerful activity displayed by the other members of the corps.

The difficulties with which we had to contend cannot well be overestimated, and can be only fully appreciated by persons familiar with the locality, or accustomed to desert travel.

I am, very respectfully yours,

JOS. U. CRAWFORD,

Assistant Engineer in Charge of Party.

The great features of the desert portion of Line D is its depression below the sea level; this can be avoided in the manner set forth in Mr. Crawford's report.

The crossing of the Colorado river at Yuma is common to this Line D, and the Otay Valley Line. The Colorado river, immediately after its confluence with the Gila, cuts through a projecting spur, which seems to leave an isolated butte on the right bank upon which Fort Yuma is established.

This butte is small in extent, affording just sufficient room for the garrison. Surrounding it on all sides, save that occupied by the channel of the river, is the alluvial bottom land of the Colorado; in season of freshets, it is, in fact, an island.

A line crossing the Colorado river bottom and approaching this elevation for the purpose of crossing the river at an elevation sufficient to dispense with the necessity of a drawbridge, could only do so by means of a long, high embankment, as the uniform level of the bottom land is maintained to the foot of the slope of the butte.

The only thing suitable for the high crossing would be a suspension bridge; the direction would be slightly oblique; the span 500 feet. The objection to a pier will be found in the character of the foundation and the cramped condition of the channel, and its shifting. The bridge site, being but a few feet from the confluence of the two rivers, the channel is some (Printed page 138) times on one side and sometimes on the other—dependent upon which of the rivers may at the time be swollen by a freshet.

As the crossing of the Colorado river cannot be considered fixed until the examinations east are completed, no soundings were taken at the crossing, but there seems to be a considerable depth of shifting material at the bottom of the river.

As before referred to, a crossing of the river better suited to our direction may be found higher up, and a considerable saving of distance be effected.

In concluding the summary for this line, it may be stated that all the available openings suitable for a railroad through the mountains have been examined. The conclusion is irresistible that the best approach from the eastward to the bay of San Diego is by way of the Gorgonio Pass and the canyon of Temecula creek.

On my arrival at San Diego, in August, 1872, the impression seemed to prevail among those familiar with the mountains east of here that a more favorable line could be had across the range by dropping into Mexican territory. So general did this opinion prevail that, during the visit of the president and yourself to this coast, the conclusion to examine it was arrived at.

Before placing a party on the line, which would have required in courtesy permission from the Mexican authorities, I resolved to make a reconnoissance of the country, to see if the route was promising, and to obtain such data in the way of altitudes and distances as would facilitate the labors of the party. As several examinations of this sort have been made during the progress of our labors here, I shall designate this as

RECONNOISSANCE OF THE TIA JUANA VALLEY AND TRIBUTARIES.

Starting from the initial point, the ground occupied by the examination is common with that of the Otay Valley Line to nearly the south line of the National Rancho, or where the line turns to the left into the valley of the Otay; from thence, continuing the southerly

course, passing La Punta, we enter the valley of Tia Juana; continuing up it 4 miles, we pass the national boundary still keeping in the valley of the Tia Juana (Printed page 139) to the mouth of the San Ysidoro, or North Branch. It will be recollected that our Otay Valley line crosses this same San Ysidoro some distance above. Following up the San Ysidoro for 4½ miles, we find a canyon or gorge.

From our initial point to the mouth of this canyon is 23 miles by the route traveled. A line 20 miles in length could be had by leaving La Punta to the right, crossing the Mesa, which would prove quite practicable. Indeed, a line of easy grades and light work could be had from the place of beginning to the entrance of this canyon. Altitude of valley at lower end of gorge, 214 feet, by barometer.

The distance through the canyon is estimated to be 2½ miles; altitude of upper opening of canyon, 445 feet. The difference in height can be overcome by a grade of 100 feet per mile; or, what would be better, the shorter or Mesa line could, at the cost of additional work, be kept up on the slope and a lower gradient used to overcome this elevation. Passing this gorge, the valley of the San Ysidoro opens out, having some extent of bottom land along the margin of the usually dry bed of the stream, for a distance of 5 miles, in which distance we pass out of the valley of the San Ysidoro, taking that of Tecate creek for better location.

The ascent of the valley for this distance of 5 miles is 103 feet; making the total altitude 548 feet. At this

point the valley of Tecate creek ceases and becomes a close canyon, continuing for 2¾ miles. The difference in altitude between the opening of the gorge and the upper end, 915 feet, or 333 feet per mile; total altitude, 1,463 feet. This elevation would have to be made by any line occupying the ground examined. Starting from the upper end of the canyon, with its elevation of 1,463 feet, running back toward the Bay of San Diego, with a gradient of 100 feet per mile, would require a distance of 14 63-100 miles, which would take us back to where the line would leave the Mesa, somewhere near the crossing of Otay creek. I doubt much if sustaining ground could be had for such a gradient. Certain it is that the work would be very heavy, caused by the broken character of the slopes.

This canyon of Tecate may be considered one of the controlling points on this route. From the head of this gorge to near (Page 140) the head of San Jose Valley, an affluent of the Tecate, the distance is estimated at 12½ miles; difference in elevation, 1,482 feet, requiring a grade of 118 feet per mile. The profile would be broken, the work very heavy, as it would be necessary to cling to the lateral slopes for the entire distance.

From the head of San Jose Valley to the summit of the divide, an estimated distance of 18 miles, no difficulties occur. The elevation of summit is 3,580 feet. From thence this line would pass through a depression leading into the Carriso canyon, connecting with the Otay valley line at the head of it.

A line over the ground examined would have no advantage over the Otay Valley line in point of cost—the

only superiority would be the saving of 290 feet in the summit.

If the country covered by this reconnoissance was under the jurisdiction of our Government, and if the question of route lay between the Otay Valley line and this, it would be well to give the ground passed over a more thorough examination.

It is estimated that no saving in distance would be effected by this line over the Otay Valley line.

Table of Distance and Elevation.

Initial Point, San Diego.....	miles	16.3	feet.
Crossing of Otay creek.....10	"	25.	"
Barber's Rancho, Tia Juana Valley.. 4	"	80.	"
Bendenas, Mouth of San Ysidoro... 5	"	160.	"
Canyon San Ysidoro (lower end).... 4	"	214.	"
Canyon San Ysidoro (upper end) 2½	"	445.	"
Canyon of Tecate Creek (lower end). 5	"	548.	"
Canyon of Tecate Creek (upper end). 2¾	"	1,463.	"
Head of San Jose Valley.....12½	"	2,945.	"
Summit of Divide.....15¼	"	3,580.	"
Head of Carriso Canyon.....14¼	"	2,638.	"

In the examination of railway lines looking to the bay of San Diego as a terminus, more or less attention has been given to the route via Warner's Pass. In the matter of actual distance, a line connecting San Diego with the Colorado river at (Printed page 141) or near Fort Yuma, via this pass, would rank midway between the Otay Valley line and the line via San Gorgonio Pass.

The approach to Warner's Pass from the desert has not been looked upon with favor by engineers who have examined it. (Vide Report of Col. R. S. Williamson, Pacific Railroad Reports, and also A. B. Grey, Civil Engineer.)

The only favorable report I am aware of is that of Mr. Chas. H. Poole, made to the San Diego and Gila, Southern Pacific and Atlantic Railroad Company. I have so far been unable to find a copy of the reports in extenso. In Senate Document No. 5, Session of 1856, incorporated into the report of the surveyor general of the State of California, we find a reference to this report, and a short summary of it, with tables of grades and altitudes, over the signature of Mr. Poole, who at that time was deputy surveyor of San Diego county. I copy a part of the table:

	Intermediate Distance Miles.	Total Distance Miles.	Altitude Feet.
Bay of San Diego, Capitan Grande, Indian Village	32 3-10		727 66-100
Summit of San Isabel	18 87-100	51.17	3,360
San Jose Valley	3.44	54.61	2,768
Warner's Summit	9.27	63.88	3,630
San Felip	10.82	74.70	2,455
Entrance of Canyon	8.05	82.75	2,638
Great Lagoon	51.75	134.50	70
Mouth of Gila	66.00	200.05	180

The manner of making the examination, which I believe was instrumental, seems to have been a line run in the lowest part of the several valleys, viz., up the valley

of San Diego river to the mouth of Oakwood canyon, up that drainage to the secondary summit of Santa Isabel. In the table, of which the foregoing is an abstract, actual grades are given of 171 feet, 181 feet, 254 feet, and 452 feet per mile on the western slope; from the information thus obtained a deduced grade of best observed location is obtained of 107 feet per mile. The secondary summit of Santa Isabel, which separates the drainage of the San Diego river from that of Warner's Pass, which flows into the San Luis Rey river, and the San *Bernardo* is a controlling point as (Printed page 142) to grade, assuming that the summit can be lowered by cutting 40 feet, making the elevation of grade 3,320 feet; a gradient of 100 feet per mile would have its footing some 6 or 7 miles down the Indian Village of Capitan Grande, and would require to be continuous for 26 or 27 miles. As this would be side-hill work for the entire distance, and over broken slopes cut up by deep lateral ravines, they would be in character similar to that on the Otay Valley Line.

It is quite evident from Mr. Poole's table and corroborated by our own examinations that the natural approach to Warner's Pass is not by the drainage of the San Diego river, but rather by the San Luis Rey.

The summit of Warner's Pass is given by Mr. Poole as 3,629.56 feet. Colonel Williamson gives the altitude as 3,780, which nearly agrees with our observations in the vicinity. As the latter are barometric and the former supposed to be obtained by actual survey, it is presumed to be the most correct.

A line via the San Diego river and Warner's Pass would give a greater amount of elevation and depression than our Otay Valley line, caused by the Santa Isabel summit on the western slope, and the San Felip summit on the eastern, both of which are additional and unavoidable. Reports having reached me of a summit north and east of Warner's Pass, which promised an opening to the desert, I instructed Mr. A. P. Wood, principal assistant engineer, to examine it and take with him a guide who, from having lived in the vicinity, was supposed to have an accurate knowledge of the country. Mr. Wood's report is submitted. It will be gathered from it that the proper and natural outlet to the coast from Warner's Pass, and also the pass which he examined, is via the drainage of the San Luis Rey river, which would dispense with all secondary summits and give a continuous descent from the summit to the sea.

J. A. Evans, Eng'r Cal. Div. T. & P. Railway.

Dear Sir: I herewith submit a report of an examination made by me, according to your orders of Oct. 20th, 1872, of a pass in the Sierra Nevada mountains, situated at the head of (Printed page 143) the San Luis Rey river, and about 2 miles north and 5 miles east of Warner's Pass; also of the country east of the pass leading down to the desert, and from the same point westward, down the valley of the San Luis Rey river to the ocean, with a view of ascertaining its practicability as a railroad route.

I reached the neighborhood of the pass on Oct. 28th, accompanied by John Warner, as guide. The pass is a

gap from 3 to 4 miles wide, the mountains rising abruptly on either side. The surface of the country is smooth, gradually ascending from the west to the summit, where I found, by barometric observation, the elevation to be 3,900 feet. At the north of the pass the descent eastward is, in many places, precipitous. By an observation, taken on an arm of the desert, I found the fall to be 3,000 feet in a distance of 7 miles.

On the north side the pass leads into a canyon, which I followed to where its drainage enters San Felip creek at the lower end of San Felip canyon. The distance from the summit of the pass to this point we estimated to be 10½ miles. The descent in the first 2½ miles from the summit is 710 feet; in the next 3 miles it is 775 feet; and from thence, for a distance of 5 miles, 130 feet per mile or 650 feet. This rapid descent of the canyon would necessitate keeping a line on the side of the mountain. On the side of the mountain separating this canyon from the San Felip Valley, I think sustaining ground can be found for a line of practicable grades and curves.

Though I am of the opinion that a grade of 116 feet per mile from the summit would necessitate crossing a low place in the mountains into the valley of the San Felip, and to get out of this valley with a line of the same grade, a line would have to follow the mountains back in the direction of Warner's Pass for some distance, and thence bear south and east along the mountains on the south side of the valley.

This would involve a great amount of curvature, and the work would be of a very heavy character, as the sides

of the mountains are cut up by deep, lateral canyons and sharp spurs composed of solid rock. The surface of the country is covered with granite rock, which appears to be rapidly disintegrating. There is scarcely any growth of vegetation here.

(Printed page 144.)

From the summit of the pass, westward, down the valley of the San Luis Rey, I found an entirely different country. According to barometric observation, the descent does not exceed 100 feet per mile for any part of the first 15 miles from the summit west. The country is a smooth valley, varying in width from ¾ to 3 miles, and well watered.

At this point the stream leaves the valley of Warner's Pass, and enters San Jose Canyon. In a distance of 16 to 18 miles, this canyon descends 1,720 feet. The sides of the mountain to the south of the stream is comparatively smooth and favorable for the construction of a railroad.

After leaving the canyon there are no difficulties in the way between that point and the ocean, as a line would follow the valley of the San Luis Rey. Good alignment can be had from the summit to the ocean. The course of the stream is from east to west, and it is comparatively free from sharp angles.

There is a good supply of timber for fuel—not for other purposes—on the sides of the mountains, from the summit to the mouth of San Jose canyon, and an abundant supply of good water from the summit, west. I found a few springs of pure water on the desert side,

though I doubt the supply being sufficient for railroad purposes.

Respectfully yours, etc.,

A. P. WOOD,
Prin. Asst. Engr.

It would seem from the examinations of Mr. Wood, that the pass, north and east of Warner's Pass, is less advantageous than Warner's, as in making the descent from it towards the desert it would be necessary to make the detour back into the valley of the upper San Felip and surmount the secondary summit between the drainage of San Felip and the Carisso. It would seem, by comparing authorities, that the summit is higher than that of Warner's Pass. It is presumed, further, that the line indicated by Mr. Poole would exceed in elevation and depression, as well as in distance and grade, the Otay Valley line; it need not, therefore, be used in a comparison with our northern lines, via San Gorgonio Pass.

(Printed page No. 145.)

The openings or passes in the range east of San Diego, may be summarized as follows:

Name of Pass.	Altitude. Feet.	Natural Approach to.
1. San Gorgonio	2,521	Coast Line, Temecula Canyon, and Potrero of San Jacinto.
2. Warner's Pass	3,630	Coast Line and San Luis Rey Valley.
3. Pass near Warner's	3,900	Coast Line and San Luis Rey Valley.

4. Volcan Pass	3,850	San Diego river and Trib.
5. Head of Pine Valley	4,700	Otay creek and Cottonwood Val.
6. Walker's Summit	3,870	Otay Creek, Bear Canyon, and Melquate Creek.
7. Los Huntos' Summit, Mexico	3,580	Tia Juana Valley, San Ysidoro and Tecate creek.

The impracticability of the summits 4 and 5 consists largely in the difficulty in reaching the desert, the direction of the descent being directly east, and not parallel with the direction of the range, as is the case with the approach to Warner's Pass and Walker's summit.

Terminus of San Diego.

The Texas and Pacific Railway Company has acquired title to two leagues of land, in the vicinity of the bay, 700 acres of which lies in a compact body, contiguous to the best and most accessible part of the ship channel on the eastern shore of the bay. This tract is conveniently situated for the location of depots and shops, requiring little or no grading for that purpose.

By reference to the map it will be seen that a spur line from our Line D, diverging near Old San Diego, would make available for business the basin inside of Ballast Point, and in front of La Plaqua. This spur will cost but little to grade, and if required, dockage could be

made there with little expense, so as to place cars within reach of ship tackles.

It may be mentioned, as one of the advantages of the northern line, that all approaches to it from any point of the bay will prove to be simply extension of line, as opposed to lengthy detours.

In conclusion, I beg to refer to the valuable aid received from Mr. A. P. Wood, principal assistant, upon whom has devolved most of the labor of preparing the estimates, and to Mr. J. U. Crawford, by whom much of the labor of developing the line via Gorgonio Pass was performed. (Printed page No. 146.) That we are able to give the results so soon is due in no small degree to the activity displayed by him in his allotted part of the work, and to Mr. C. J. Fox, who also developed some of the most important lines leading to San Gorgonio. Mr. Fox's labors were conducted with great care, and whatever part of them may be adopted, much labor will be saved in future location.

To Mr. J. H. Reno, upon whom devolved the most difficult and discouraging part of our surveys, much credit is due. In the month of July, 1872, he managed to keep the party together under difficult circumstances, although not then in full charge of it.

From Mr. C. P. Taggart, to whom I was referred to for advice in all legal matters, I have received valuable assistance and counsel.

Respectfully submitted,

JAMES A. EVANS,
Engr. Cal. Div.

Mr. CALL.—I request the special examiner, after copying the portions of the book heretofore offered in evidence by me, to carefully compare the same with the original, and to certify to the accuracy of the copy so compared.

I, William Herbert Smith, special examiner and stenographer, duly appointed by virtue of an order of the Circuit Court of the United States, for the Southern District of California, 9th Circuit, do hereby certify that in accordance with the request of counsel for the complainant, above noted, I have compared the portions of the said report offered in evidence with the original printed copy thereof, produced by the above-named witness, and that the same is a true and correct transcript therefrom in every particular.

_____

Special Examiner and Stenographer.

By Mr. CALL.—Q. Do you know of anything else of interest concerning the making of this report and the filing of it with the company?

A. No; I can't say that I do. I distinctly remember the report and the fact of my having copied it and gotten it up, so that I can testify to its completeness. It is a report that has been very highly spoken of, and has been accepted as a model of its kind.

Q. From what date was the report prepared?

A. From the reports of the division engineers, made to the chief engineer.

Q. Including the reports of Mr. Evans and Mr. Crawford? A. Yes.

Q. Do you still occupy the same business relations with Gen. Dodge that you did in 1873? A. I do.

Q. And have you so acted since that time?

A. Ever since that, with a few slight interregnums, when Gen. Dodge was absent in Europe or elsewhere.

Q. State whether or not you know that Gen. Dodge signed the original report of 1874, which he furnished to the Texas & Pacific Railway Company.

A. He did. I distinctly remember that he signed it with his own hand and in his own handwriting.

JOHN T. GRANGER.

Subscribed and sworn to before me this 17th day of December, A. D. 1896.

WM. HERBERT SMITH,
Special Examiner and Stenographer.

It is understood that the defendant reserves all objection to the foregoing testimony of the witness above named, as to its competency and relevancy.

And thereupon the further taking of these depositions was adjourned until Tuesday, November 24th, at 3:15 o'clock P. M., at the rooms of J. H. Call, in the National Hotel, Washington, D. C.

Washington, D. C., November 24, 1896,
3:15 o'clock P. M.

Met pursuant to adjournment, at the rooms of J. H. Call, National Hotel, Washington, D. C., when were present on behalf of the complainant, Joseph H. Call, special assistant United States attorney, and no appearance on behalf of the defendants. Whereupon, the further taking of these depositions was, by consent of counsel for the re-

spective parties, adjourned until Wednesday, November 25, 1896, at 1:30 o'clock P. M., at the same place.

Washington, D. C., November 25, 1896.
1:30 o'clock P. M.

Met pursuant to adjournment at the rooms of J. H. Call, National Hotel, Washington, D. C.

Whereupon the further taking of these depositions was, by consent of counsel for the respective parties, adjourned until Saturday, November 28, 1896, at 2 o'clock P. M., at the same place.

Washington, D. C., November 28, 1896.
2 o'clock P. M.

Met pursuant to adjournment at the rooms of J. H. Call, National Hotel, Washington, D. C.

Whereupon the further taking of these depositions was adjourned until Thursday, December 3, 1896, at 10 o'clock A. M., at the same place.

Washington, D. C., December 3, 1896,
10 o'clock A. M.

Met pursuant to adjournment at the rooms of J. H. Call, National Hotel, Washington, D. C.

There being no appearance by counsel for the respective parties, or by the parties, the taking of the testimony in th above-entitled cause before me was thereupon closed.

I, William Herbert Smith, special examiner and stenographer in the above-named consolidated causes, under and by virtue of an order issued out of the Circuit Court of the United States of America, Ninth Circuit, for the

Southern District of California, on the 5th day of October, A. D. 1895, a certified copy of which is hereto attached, do hereby certify that, pursuant to the said order of appointment and the annexed notices to take testimony in said cause, I took the testimony of the above-named witnesses, Charles E. Satterlee and John T. Granger, at the several times and places in said depositions mentioned, and in the manner therein described, which said testimony was taken down by me in shorthand and correctly reduced to typewriting, under my direction, and at the request of counsel for the United States, by consent of counsel for the defendant; and that I elected to so take the said testimony as being more convenient for me.

I further certify that the testimony of each of the said witnesses, after the same was reduced to typewriting, as aforesaid, was read over by them, and each of them, and was by them, and each of them, duly subscribed and sworn to in my presence.

I further certify that each of the said witnesses was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth.

I further certify that the documentary evidence, excerpts from which were introduced in evidence by counsel for the respective parties, has been transcribed and appears as above set forth, and that the same has been carefully compared by me with the originals of the said documents so offered in evidence, and that the same have been carefully and accurately copied as above set forth.

Witness my hand, this 31st day of December, A. D. 1896.

WM. HERBERT SMITH,

Special Examiner and Stenographer in said Causes.

[Endorsed]: Opened and filed Mar. 4, 1897. Wm. M. Van Dyke, Clerk.

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
Consolidated Nos. 675, 587, and 662.

Testimony.

Testimony, by deposition, taken at Dallas, Texas, on behalf of the United States in the above-entitled cause, before G. W. Parker, special examiner and stenographer. Said deposition being taken in pursuance of the foregoing and annexed order of the United States Circuit Court for the Southern District of California, appointing said G. W. Parker such special examiner and stenographer, and

in pursuance of the foregoing and annexed notice fixing the time and place for taking said deposition, duly served upon the attorneys and counsel for the defendants, and in pursuance of the foregoing and annexed order fixing the length of time for making service upon the defendants of the taking of said deposition.

On this, the 17th day of June, A. D. 1897, at the office of the United States attorney, in the city of Dallas, Texas, between the hours of 10 o'clock A. M. and 4 o'clock P. M., there appeared before me Sam. A. Leake, on behalf of the United States, and D. R. Sessions, on behalf of the defendants in said cause; and thereupon, by consent of the parties, the hearing was adjourned to the office of Major B. S. Wathen, chief engineer of the Texas & Pacific Railroad Company in the said city of Dallas, and thereupon the following proceedings were had:

By request of counsel for both sides, the examination of the witness hereinafter named was had orally, and was taken down by me in shorthand, to be hereafter reduced to typewriting by me, and it was further agreed that one copy of same should be furnished to each of counsel.

B. S. WATHEN, being by me first duly sworn and cautioned to testify the whole truth, was examined, and in answer to the following interrogatories, testified as follows:

Q. Please state your name and present occupation.

A. B. S. Wathen; I am chief engineer of the Texas & Pacific Railway Company.

Q. What was your occupation in the years 1880 and 1881?

A. I was chief engineer of the Texas & Pacific Railway Company in 1880, and part of 1881.

Q. State who was engineer in charge of the surveys of the Texas & Pacific Railway Company in the years 1875 and 1876.

Mr. SESSIONS.—I wish to inquire whether you are asking for the actual knowledge of the witness.

Mr. LEAKE.—I understand that is all he can testify to.

WITNESS.—I was making surveys for the company in the years 1876 west of Ft. Worth; I don't know who else was making surveys in those two years.

Q. Then state what surveys you made.

A. I only made surveys between Ft. Worth and the Brazos river during that year.

Q. Who was chief engineer of the Texas & Pacific Railway Company during the years 1872, 1873, and 1874?

A. General G. M. Dodge.

Mr. SESSIONS.—Is that of your own knowledge?

A. Yes, sir; I had knowledge of it. I was associated with him sufficiently to know it.

Mr. LEAKE.—State who had charge of all the surveys of the company during these three years.

A. General Dodge was engineer in chief, but who had charge of the actual work in the field I don't know all the parties; I know some of them.

Q. Please state if you knew James A. Evans.

A. Yes, sir; I knew him in the year 1871.

Q. What was his occupation?

A. At that time he was connected with the International Railway Company of Texas as engineer.

Q. State whether or not he was ever connected with the Texas & Pacific Railway Company at any time. If so, in what capacity?

A. I was told that he was connected with the Texas & Pacific as engineer in charge of the California division in 1872, but had no personal knowledge of the fact.

Q. Who has charge of the archives, records, and maps that belong to the Texas & Pacific Railway Company, relating to the surveys of said company?

A. They are in charge of the chief engineer, myself.

Q. Then you have charge of them?

A. Yes, sir.

Q. State whether or not you have in your office, as chief engineer of said company, any maps showing surveys from Pima villages, Arizona to San Diego, California, one from Fort Yuma on the Colorado to Pima villages, and another showing various surveys in California between San Diego and points east of the mountains?

Mr. SESSIONS.—I would ask again whether the witness is speaking of his own knowledge as to what these maps are, or whether he is testifying as to what they purport to be.

A. I have no direct knowledge except as to what the maps show by themselves, and the verbal information of the assistant chief engineer at the time the maps were made, or about the time the maps were made.

Q. How long have these maps been in the office of the chief engineer of the Texas & Pacific Railway Company?

Mr. SESSIONS.—I would like to ask again if the witness is speaking from actual knowledge.

A. I don't remember to have seen these maps prior to or about the latter part of 1879, or first of 1880.

Q. State whether or not they appear to be fresh maps or ancient documents, and whether or not they are discolored and worn with age.

A. They are not fresh maps; they show considerable abuse and discoloration.

Q. State what these three maps show regarding the surveys made by the said Texas & Pacific Railway Company.

A. They show that there were some surveys made by the Texas & Pacific between Ft. Yuma, on the Colorado river, Arizona, and San Diego, California.

Q. Between what years?

A. The surveys between Fort Yuma and Pima villages were made prior to 1873.

Mr. SESSIONS.—That is, they purport to show that?

A. Yes, sir.

Q. State whether or not you ever made a careful examination in your office for any other maps showing surveys made west of the Colorado river except those produced.

A. Yes, sir; we have had search made for other maps, and don't find any.

Q. State whether or not said maps appertain to the said Texas & Pacific Railway Company.

A. The maps purport to be a record of the surveys made by the Texas & Pacific Railway Company over that

territory; I had nothing to do with making the maps or making the surveys.

Q. State whether or not they are original documents.

A. The maps are seemingly originals of these surveys.

Q. State whether or not they are used and kept by the Texas & Pacific Railway Company as original maps of these surveys.

A. They were so considered by the engineering department of the Texas & Pacific.

Q. State whether or not you, as custodian of these maps, will allow them to pass out of your possession.

A. I don't wish them to.

Q. State whether or not you have examined any copies or tracings of said original maps and have compared them with the said originals.

A. Yes, sir; I am satisfied these were traced from blue prints I gave Mr. Call, special attorney for the United States.

Q. They are correct tracings, are they not?

A. I think they are correct.

Q. I would like you to compare these with the originals in this office as well as you think necessary.

A. I have looked at the originals recently, and I think these are very approximate, if not exact, tracings of the originals from which I gave Mr. Call, or what purport to be the originals. These are copies of the blue prints which I gave Mr. Call, special attorney for the United States, from maps of that district as found in this office, and which purport to be surveys for the Texas & Pacific Railway Company for the district called for.

Q. State whether or not the blue print you furnished Mr. Call were correct copies of the three maps above referred to.

A. They were photographed, and therefore correct.

Q. State whether or not the exhibits that are attached are correct tracings of the three maps above referred to.

A. They are substantially correct, if not exact.

Mr. LEAKE.—The first map there is marked "Texas & Pacific Railway Company, California division, map of surveys between Pima villages, Arizona, and San Diego, California," and also endorsed "Marshall, Texas, April, 1873, G. M. Dodge, Chief Engineer." I will ask the examiner to identify that map by marking his initials upon the corner. The next map we introduce shows a line commencing at the east line of range six, and running thence to the Pacific Ocean, and shows the line of route by San Gorgonio Pass and Line D to San Diego.

Q. State what that map represents.

A. This map represents a section of California, bordering on Lower California.

Q. What does it represent regarding the surveys?

A. It purports to represent the surveys made for the Texas & Pacific Railway Company for that section of California.

Q. When? A. Between 1871 and April, 1873.

Mr. LEAKE.—The examiner will please identify this map by his initials.

Q. The next map produced is marked "Texas & Pacific Railway, Arizona Division, from Fort Yuma to Pima villages. Please state what that map represents.

A. This map represents a portion of Arizona, extending from Ft. Yuma, east to Old Pima villages, and purports to show surveys made for the Texas & Pacific Railway Company, between the years 1871 and April, 1873.

Mr. LEAKE.—The examiner will please mark this map so as to identify it as such.

Q. You stated that these maps were somewhat discolored; state whether or not they are intelligible.

A. Yes, sir; they are intelligible.

Mr. LEAKE.—I offer these maps in evidence, and request the examiner to mark them as Plaintiff's Exhibits 1, 2, and 3, respectively.

Plaintiff rested.

Cross-Examined by Mr. SESSIONS.

Q. Major, your first connection with the engineering department of the Texas & Pacific Railway, as I understand you, was in 1876, or about that time?

A. About that time; I did a little work for that railway earlier than that.

Q. Had you any knowledge whatever, except hearsay, of the surveys made in California prior to 1876?

A. No, sir; I was never in California in my life.

Q. Your operations, then, had been confined up to that time to territory east of Ft. Worth, or east of the Brazos river? A. Yes, sir.

Q. What you have said then with regard to any maps or surveys purporting to have been made previous to 1876 is not stated as to your own knowledge?

A. It is not stated as work done by me, or in which I had any direct part; my information come from those

that were engaged in making the surveys in part, and partly by those who were in charge of the engineering affairs of the Texas & Pacific Railway at that time.

Q. Your information in regard to those matters rests upon the statement of others? A. Yes, sir.

Q. You were chief engineer for this company for the years 1880 and 1881?

A. I was all of 1880, and part of 1881.

Q. Previous to that time you had no knowledge of any maps or surveys made in California and Arizona other than what you have testified to? A. No, sir.

Q. When did you first become custodian of the maps and surveys of the company?

A. It was in the early part of the year 1880 that I was appointed as engineer for the company, and became custodian of those records.

Q. Did you have occasion to examine all, or most of your records during that period of your official connection with the company?

A. I looked over all, or nearly all, of the maps and profiles of survey during the time I was chief engineer.

Q. Is there any mark or positive means in existence by which you can determine absolutely the original character of these maps?

A. I put no private mark on any of them; I am fully satisfied that these maps are the ones I examined 16 or 17 years ago.

Q. I have reference in my question to the time at which you first examined them—say in 1880?

A. I had no better knowledge of their being what they purported to be at that time than I have now.

Q. Major, is there any mark on any of these maps in the handwriting of any officer of the company whose handwriting you are familiar with that would indicate to you positively that any of these surveys were made by him, or under his direction or control?

A. There is no signature or mark that I know of that would fix that point positively.

Q. For example, is General Dodge's signature on any of these maps? A. I fail to see it.

Q. Is the signature of any other officer in charge of the surveys on any of these maps?

A. I think not.

Q. Major, where have these maps and surveys been kept?

A. At the time I first saw them they were in Marshall, Texas; that was in 1880; I found them in Dallas, Texas, when I was reappointed chief engineer in 1892.

Q. Were not these records kept for a period of years at the company's general office in Marshall, Texas?

A. Yes, sir; that is my understanding—that is, I found them there at a certain period and understood they were kept there until the general offices were moved to Dallas in 1886.

Q. After you became chief engineer stationed at Dallas—that is, subsequently to 1892, did you not send to Marshall to have whatever papers were there, or papers of the kind described, brought to your office here?

A. Yes, sir; I sent over there and found papers which

were missing among the records which we wanted and found some.

Q. When you first saw the records of the office, such as are in consideration here, were they of considerable bulk—about what space?

A. Do you mean the records of the territory in question?

Q. No, the general map and surveys.

A. There was quite a large number of the maps and profiles.

Q. About how much space would they occupy? Would they fill a box-car?

A. No, sir; they would not fill a box-car, but it would require a room, I should say 10x12 or 15 feet, to properly store them.

Q. When you gathered these papers together, about what space would they occupy?

A. A small box would hold all we found when we went back to look for the missing records.

Q. A box of what dimensions?

A. A box 3x4 by 3½ or 4 feet deep.

Q. Is it not true that for a period of time that these records were kept in what had been a hospital of the company at Marshall, and that the house was in such a condition that it could be easily entered by the doors and windows by boys, and were not a great many of these archives, maps, profiles, and surveys destroyed or carried away? A. That is my information.

Q. Your information as an officer of the company?

A. Yes, sir.

Q. Was it not true that the records and papers before you came into office had been left in this hospital building which had been practically abandoned for use by the company? A. Yes, sir; that was the case.

Q. From your general knowledge of maps, profiles, and surveys pertaining to the California division of the road as projected, are you not aware that some, and probably a great deal, of this date is disappeared?

A. Yes, sir.

Q. Is it not possible that maps that would shed light modifying what the present maps show were destroyed in the abandoned building at Marshall, Texas?

(Plaintiff excepts to the form of the question upon the ground that this is an opinion of the witness.)

Mr. SESSIONS.—State what your knowledge, as an officer of the company, was with regard to the disappearance of a large number of this data.

A. When I became engineer in charge in 1880, it was then believed that the Texas & Pacific Railway would be constructed through to the Pacific Coast to San Diego, and as engineer in charge I looked up the maps, profiles, etc., pertaining to the old surveys which had been made some years prior, and remember a very large number of maps and profiles in connection with the surveys west of El Paso which totally disappeared. I have no knowledge of whatever became of them, but assume they were lost by being left in the old hospital building at Marshall, Texas, which for a time had been abandoned, by reason of the company having built a new hospital and the old

building was not torn down or wrecked for some considerable time after the building of the new hospital.

Q. Counsel for the plaintiff has asked you, Major, with regard to one James A. Evans, who, as I understand it, you stated to be the engineer in charge of the California division of the surveys of the Texas & Pacific Railway Company; was Mr. Evans a competent engineer?

A. Yes, sir.

Q. And he had charge of these surveys on that division? A. That was my information.

Q. Your information as an officer of the company?

A. Yes, sir; that is, I was not an officer of the company at the time he was in charge of these surveys; that information came to me later when I became an officer of the company, when these surveys were made under the charge of James A. Evans—that is, the actual surveys in California.

Q. And in that connection you knew Mr. Washburn —Mr. D. W. Washburn?

A. Yes, sir; Mr. Washburn was the assistant chief engineer under General Dodge for several years, and I took his place when he resigned in 1880, and my association with him from 1871 up to the time I took his place. I talked with him officially about matters regarding surveys generally; he was the chief engineer, and had asked me to take charge of the survey from Fort Worth to the Pacific coast in case the line should be built, as he fully expected to be chief engineer of the company himself, but when the work was started from Fort Worth west, a construction company was formed and he was offered the

place of chief engineer for the construction company, and when he resigned from the place of chief engineer for the railroad company I was appointed in his stead, in the meantime General G. M. Dodge having resigned to become president of the construction company, and a number of these years I was associated with him in various ways, and talked over frequently with him about these western surveys while he was acting as engineer in chief.

Q. Mr. Washburn had some familiarity with the work done in California?

A. Yes, sir; he was for quite a time assistant chief engineer and was as familiar with the facts as any one who had not been on the ground and had not done any work.

Q. Did he derive any information by way of reports coming to him from James A. Evans?

A. I think James A. Evans reported directly to General Dodge, and the reports would necessarily be used by the assistant chief, and it was based on these reports that he discussed these matters.

Q. Was it not Mr. James A. Evans' opinion in his official reports that the most feasible route to San Diego was by the straight course and direct short line, unless perhaps a line deviating south for a short distance into Lower California coming up through the Tia Juana canyon?

A. I cannot speak positively as to that, because I never saw Mr. Evans' report, but from the examination I made of the profiles and maps it was the general impression that a fairly good route could be had on a direct line.

Q. Have you had any occasion to use the maps in evidence for any construction purposes?

A. No, sir.

Q. So far as your knowledge of them extends you simply assume that they have been continuously in your possession? A. In the custody of this office.

Q. In regard to the appearance of these maps indicating age, as suggested by counsel for the plaintiff, are they made of such excellent paper that they might not appear old at the end of a few years considering the usage they subjected to in the abandoned hospital?

A. The maps were made of very fair quality of tracing paper; tracing paper, however, is very easily stained and abused, and a map can be made to look very old when made of that class of paper, in a short time.

Q. Have you ever had any occasion to use these maps considered as originals—maps of surveys in California for your company?

A. No, sir; I never had any occasion to use them.

Defendants rest.

Redirect Examination.

Q. Major, you stated on cross-examination that there were some records lost out of the old building in Marshall showing profiles, maps, etc., west of El Paso; state whether or not these records appertain to surveys that were made west of the Colorado river?

A. Yes, sir; I examined the maps and profiles of the line between San Diego and the Colorado river at one time, and those profiles cannot be found. I am not abso-

lutely certain whether there were other maps than the ones we now have or not; it has been quite a long time ago, but my recollection is that the maps I examined were on paper, and not tracings—covering this very territory.

Q. Your impression is now that the records that were lost were the profiles and not maps?

A. They were both, because the originals from which the tracings were made were certainly in existence at one time, and those are the ones that I think I examined instead of the tracings. I have a very distinct knowledge of having looked over the maps and profiles of what we knew as the southern line.

Q. Then you mean to say that the three maps which are attached hereto as exhibits are the tracings of the original maps that were made of these surveys west of the Colorado river?

A. Yes, sir; that is my inference.

Q. You are now testifying in regard to your recollection of the maps in the hospital building at Marshall?

Q. Yes, sir; I remember these old maps, and looked over them at one time.

Q. Your recollection now is that the maps from which these copies you have testified about were traced were lost out of the hospital building at Marshall?

A. Yes, sir; that would be my impression.

Q. You know you have completely lost profiles and maps of surveys west of the Colorado river?

A. Yes, sir; we cannot find them in this office.

Q. Major, state whether or not the maps—the three maps that you have referred to that are now in your pos-

session—have in any way been altered or changed since 1880.

A. I cannot remember that they have been changed. My impression is that they have not been changed except by abuse.

Q. How long have you been a civil engineer?

A. Since 1865.

Q. State whether or not the three maps that you have testified about are old looking from age, or whether they are new maps and look old by reason of abuse.

A. My impression is that they are what they purport to be—that they were made in the year 1873; I have no means of knowing positively about the matter.

Q. State whether or not these maps are kept by you as chief engineer of the company as original drawings of these surveys.

A. I kept them upon the idea that they are what they purport to be—tracings from the maps of the original surveys; I don't say what they are; I say that is what they purport to be.

Both sides closed.

B. S. WATHEN.

I further certify that said testimony of said witness was taken down by me in shorthand and reduced to typewriting, and was then read over to the said witness and corrected by him, and thereupon the said witness subscribed his name thereto, and the same was then sworn to by him before me.

Witness my hand at the city of Dallas, State of Texas, this the 18th day of June, A. D. 1897.

G. W. PARKER.
Special Examiner and Stenographer.

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES, Plaintiffs, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY, Defendants.	Consolidated Nos. 587, 675, 662

Notice for Taking Deposition.

To the defendants in the above-entitled cause, and to Walter J. Trask, Lewis E. Payson, William Singer, Junior; William F. Herrin, W. H. H. Hart, Page, McCutcheon & Eells and Butler, Notman, Joline and Mynderse, attorneys and counsel for said defendants:

You will please take notice that on the 17th day of June, A. D. 1897, at the office of the United States attorney, in the city of Dallas, State of Texas, between the hours of 10 o'clock in the forenoon and 4 o'clock in the afternoon, the United States will take the testimony of B. S. Wathen and others in the above-entitled cause before G. W. Parker, Esq., special examiner and stenographer thereunto appointed by the United States Circuit Court for the Southern District of California.

Said testimony will be taken orally, and in pursuance of an order of said special examiner will be taken down in shorthand.

The taking of said testimony will be continued from time to time and from place to place in said city of Dallas as may be determined by said special examiner.

You are requested to appear and cross-examine said witnesses.

JOSEPH H. CALL,
Special United States Attorney.

State of California,
County of Los Angeles. } ss.

Bert E. Vickrey, being first duly sworn, deposes and says: That on the 8th day of June, A. D. 1897, he served the foregoing and annexed notice of taking of depositions upon the above-named defendants, and upon their respective solicitors and counsel, as follows:

That he served said Walter J. Trask, as attorney and counsel for said defendants, by personally delivering to R. W. Darby, clerk of said Trask, at the office of said Trask, in the city of Los Angeles, California, a copy of the

foregoing and annexed notice on said 8th day of June, 1897, the said Trask being absent from said city of Los Angeles and from the Southern District of California.

That each of said defendants in said cause is a nonresident of the Southern District of California.

That each of said solicitors and counsel for said defendants is a nonresident of the Southern District of California, except said Walter J. Trask.

That neither of said solicitors or counsel has designated any place where service may be made upon them, or either of them, in said city of Los Angeles, California, as required by the rules of this court.

That service was further made upon said parties defendant and their solicitors and counsel by filing and depositing in the office of the clerk of the United States Circuit Court for the Southern District of California an original duplicate of said notice on the 8th day of June, 1897.

That service was further made upon said defendants upon said 8th day of June, 1897, by my mailing a true copy of said notice to William Singer, Jr., as solicitor and attorney for said defendants, addressed to him at San Francisco, California, where he resides, and deposited in the United States postoffice under cover of an official envelope. BERT E. VICKREY.

Subscribed and sworn to before me this 8th day of June, A. D. 1897.

[Seal] GEORGE L. KEEFER,

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Original. In the U. S. Circuit Court, So. District of California, Ninth Circuit. The United States vs. The Southern Pacific Railroad Company et al. Notice for taking depositions.

Whereas, I, G. W. Parker, was, on the 1st day of June, 1897, appointed a special examiner and stenographer by the United States Circuit Court for the Southern District of California, to take the testimony at Dallas, Texas, in the case of United States against the Southern Pacific Railroad Company and others, as more fully appears from the foregoing and annexed order of said court; and,

Whereas, Joseph H. Call, Esq., special United States attorney in said cause, has requested that the testimony therein and to be taken before me shall be taken down by a skillful stenographer, or by a skillful typewriter, as may be determined by me, and has further requested that I, as such special examiner, should fix a reasonable time for the giving of notice to the counsel and solicitors for the defendants for taking such testimony;

Now, therefore, in pursuance of the foregoing order of said court, appointing me such special examiner and stenographer, and in pursuance of said application and request, it is ordered that the testimony in said cause, to be taken before me as aforesaid, shall be taken orally and taken down by me as such stenographer, and that at least eight (8) days' notice of the time and place for taking such testimony shall be given by the counsel for the United States to the solicitors and counsel for said defendants, and that such notice may be given in accord-

ance with the rules of the United States Circuit Court for the Southern District of California.

Witness my hand at the city of Dallas, Texas, this 7th day of June, A. D. 1897. G. W. PARKER,

Special Examiner and Stenographer.

[Endorsed]: Consolidated Nos. 675, 587, and 662. In U. S. Circuit Court, Southern District of Cal. United States vs. So. Pac. R. R. Co.

At a stated term, to wit, the January term, A. D. 1897, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Tuesday, the first day of June, in the year of our Lord one thousand eight hundred and ninety-seven. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA,
Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Nos. 675, 587, 662 Consolidated

Order Appointing Special Examiner.

Upon motion of Joseph H. Call, Esq., special assistant United States attorney, and good cause appearing therefor, and no objection being made by defendants, it is ordered that G. W. Parker, Esq., of Dallas, Texas, be, and he is hereby, appointed a special examiner and stenographer of this court to take testimony in said cause at Dallas, Texas, said testimony, when so taken, to be transmitted to this court in accordance with the rules of court.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court

June 1st, 1897, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, Nos. 675, 587, and 632, Consolidated, and remaining of record therein.

Attest my hand and the seal of said Circuit Court, this 3rd day of June, A. D. 1897.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: Nos. 675, 587, and 662, Consolidated. U. S. Circuit Court, Ninth Circuit, Southern District of California. The United States of America vs. The Southern Pacific Railroad Company et al. Certified copy of order appointing G. W. Parker, Esq., a special examiner. Deposition of B. S. Wathen. Opened and filed June 28, 1897. Wm. M. Van Dyke, Clerk.

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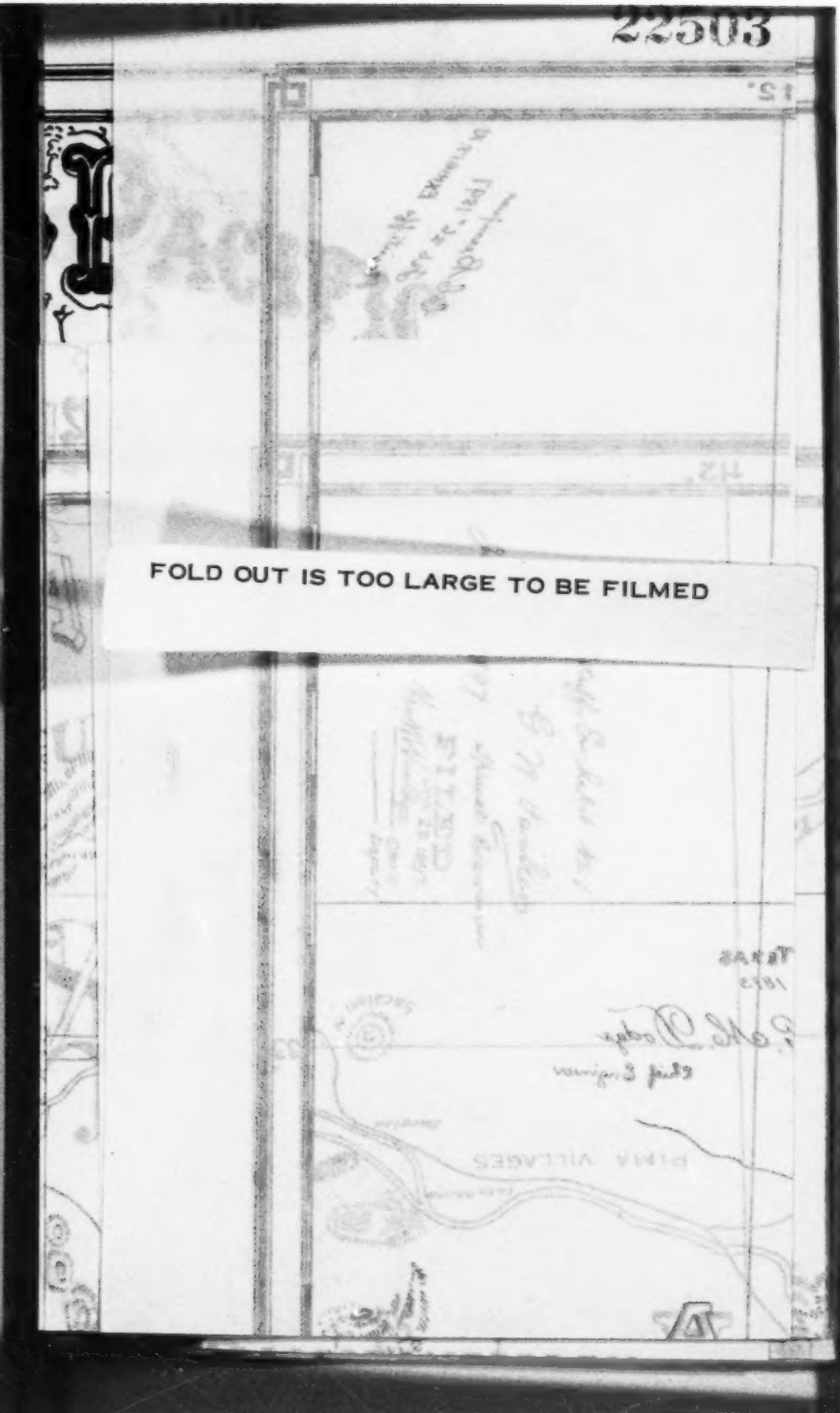

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At a stated term, to wit, the January term, A. D. 1897, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Tuesday, the first day of June, in the year of our Lord one thousand eight hundred and ninety-seven. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA, Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY, Defendants.

Nos. 675, 587, 662, Consolidated

Report of Special Examiner.

Upon motion of Joseph H. Call, Esq., special assistant United States attorney, and good cause appearing therefor, and no objection being made by defendants, it is ordered that H. S. Rollins, Esq., of Los Angeles, California,

be, and he is hereby, appointed a special examiner and stenographer of this court to take testimony in said cause at Los Angeles, California, said testimony, when so taken, to be transmitted to this court in accordance with the rules of court.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court June 1st, 1897, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, Nos. 675, 587, and 662, Consolidated, and remaining of record therein.

Attest my hand and the seal of said Circuit Court, this 7th day of June, A. D. 1897.

[Seal] WM. M. VAN DYKE,
Clerk.

Whereas, I, H. S. Rollins, was on the 1st day of June, A. D. 1897, appointed a special examiner and stenographer by the United States Circuit Court for the Southern District of California, to take the testimony at Los Angeles, California, in the case of The United States of America, Complainants, against The Southern Pacific Railroad Company, D. O. Mills and Homer S. King, Trustees, and The Central Trust Company of New York, the Southern Pacific Company of Kentucky, the Colorado River Irrigation Company, Defendants, Nos. 675, 587, and 662, Consolidated, as more fully appears from the foregoing and annexed order of said Court; and

Whereas, Joseph H. Call, Esq., special United States attorney in said cause, has requested that the testimony therein and to be taken before me, shall be taken down by a skillful stenographer or by a skillful typewriter, as may be determined by me, and has further requested that I, as such special examiner, should fix a reasonable time for the giving of notice to the counsel and solicitors for the defendants for taking such testimony;

Now, therefore, in pursuance of the foregoing order of said Court appointing me such special examiner and stenographer, and in pursuance of said application and request—

It is ordered that the testimony in said cause, to be taken before me as aforesaid, shall be taken orally and taken down by me as such stenographer, and that at least five days' notice of the time and place for taking such testimony shall be given by the counsel for the United States to the counsel and solicitors for said defendants, and that such notice may be given in accordance with the rules of the United States Circuit Court for the Southern District of California.

Witness my hand at the city of Los Angeles, California, this 7th day of June, A. D. 1897.

H. S. ROLLINS,
Special Examiner and Stenographer.

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiff,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.
Consolidated Nos. 587, 675, 662.

Notice to Take Testimony.

To the defendants in the above-entitled cause, and to Walter J. Trask, Lewis E. Payson, William Singer, Junior, William F. Herrin, W. H. H. Hart, Page, McCutcheon & Eells and Butler, Notman, Joline and Mynderse, attorneys and counsel for said defendants:

You will please take notice that on the 29th day of June, A. D. 1897, at the office of J. H. Call, room 309 Currier Block, 212 W. 3rd street, in the city of Los Angeles, State of California, at the hour of 10 o'clock in the fore-

noon, the United States will take the testimony of Charles J. Fox, O. N. Sanford, and others in the above-entitled cause, before H. S. Rollins, Esq., special examiner and stenographer thereunto appointed by the United States Circuit Court for the Southern District of California.

Said testimony will be taken orally, and in pursuance of an order of said special examiner will be taken down in shorthand.

The taking of said testimony will be continued from time to time and from place to place in said city of Los Angeles, as may be determined by said special examiner.

You are requested to appear and cross-examine said witnesses.

JOSEPH H. CALL,
Special United States Attorney.

State of California,
County of Los Angeles. } ss.

Bert E. Vickrey, being first duly sworn, deposes and says: That on the 22d day of June, 1897, he served the foregoing and annexed notice of taking of testimony upon the above-named defendants, and upon their respective solicitors and counsel as follows:

That he served said Walter J. Trask, as attorney for said defendants, by personally delivering to said Trask, at his office in the city of Los Angeles, California, a copy of the foregoing and annexed notice on the 22d day of June, 1897.

That each of said defendants in said cause is a nonresident of the Southern District of California.

That each of said solicitors and counsel for said defendants is a nonresident of the Southern District of California, except said Walter J. Trask.

That neither of said solicitors or counsel has designated any place where service may be made upon them, or either of them, in said city of Los Angeles, California, as required by the rules of this court.

That service was further made upon said parties defendant and their solicitors and attorneys by filing and depositing in the office of the clerk of the United States Circuit Court for the Southern District of California an original duplicate of said notice on the 22 day of June, 1897.

That service was further made upon said defendants upon said 22d day of June, A. D. 1897, by my mailing a true copy of said notice to William Singer, Jr., as solicitor and attorney for said defendants, addressed to him at San Francisco, California, where he resides, and deposited in the United States postoffice under cover of an official United States envelope.

BERT E. VICKREY.

Subscribed and sworn to before me this 22*st* day of June, A. D. 1897.

[Seal] GEORGE L. KEEFER,

Notary Public for Los Angeles County, State of California.

[Endorsed]: Consolidated Nos. 587, 675, 662. In the U. S. Circuit Court, So. District of Cal., Ninth Circuit. United States vs. So. Pacific Railroad Co. et al. Notice to take testimony. H. S. Rollins.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES,
Plaintiffs,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Nos. 675, 587, and 662. Consolidated.

Testimony.

Testimony by deposition taken at Los Angeles, California, on behalf of the United States in the above-entitled cause before H. S. Rollins, special examiner and stenographer.

Said deposition being taken in pursuance of the foregoing and annexed order of the United States Circuit Court, Ninth Circuit, Southern District of California, appointing the said H. S. Rollins such special examiner and stenographer, and in pursuance of the foregoing and annexed notice fixing the time and place for taking said

deposition, duly served upon the attorneys and counsel for the defendants, and in pursuance of the foregoing and annexed order fixing the length of time for making service upon the defendants of the taking of said deposition.

On this 29th day of June, A. D. 1897, at the office of Joseph H. Call, Esq., room 309 Currier Block, 212 W. Third St., in the city of Los Angeles, California, at the hour of 10 o'clock A. M., there appeared before me Joseph Call, Esq., on behalf of the United States, and H. V. Reardan, Esq., as attorney for the defendants in said cause, and thereupon the following proceedings were had:

By request of counsel for both sides, the examination of the witnesses hereinafter named was had orally and was taken down by me in shorthand, to be thereafter reduced to typewriting by me.

JOSEPH H. CALL, Esq., being by me first duly sworn and cautioned to testify the whole truth, testified as follows:

I want to state that in the latter part of February, 1897, at the city of Dallas, Texas, Major B. S. Wathen, chief engineer of the Texas & Pacific Railway Company, furnished me copies of three maps in his office. They were blue prints of the maps on file there, and the map which I have here and which I will offer in evidence was furnished to me at that time by Major Wathen, and is one of the same identical maps referred to by Maj. Wathen in his deposition lately taken at Dallas before G. A. Parker, Esq., special examiner, wherein he testified that this map was a true copy of the one on file in his office.

I now offer this map in evidence here, and ask that it be marked Plaintiffs' Exhibit "A" by the examiner.

No cross-examination.

(Signature of witness waived by consent.)

OLIVER N. SANFORD, being by be first duly and regularly sworn and cautioned to testify the whole truth, was examined, and in answer to the following interrogatories testified as follows:

Direct Examination.

(By JOSEPH H. CALL, Esq.)

Q. What is your name and age?

A. Oliver N. Sanford; forty-nine years old.

Q. Where do you reside? A. San Diego.

Q. How long have you lived there?

A. I have lived there since '72—that is, there and vicinity.

Q. What is your occupation? A. Civil engineer.

Q. How long have you been a civil engineer?

A. I was—call it from my actual work in the field, it would be from about 1870; but I was in the class of 1870 of the Massachusetts Institute of Technology of Boston.

Q. Were you ever employed by the Texas & Pacific Railway Company? A. I was.

Q. During what years?

A. The last part of '72 and early part of '73, I think; I was going to say up to about June or July—July, it must have been July.

Q. '73? A. Yes, sir; July, '73.

Q. State, if you know, what the Texas & Pacific Railway Company was doing in California at that time.

A. They were making surveys and maps for a road across the continent, a continental road.

Q. What were you engaged in doing for the company during the time of your employment?

A. I was engaged as general draughtsman, and took charge of their office work.

Q. With headquarters at San Diego?

A. Yes, sir.

Q. Did you make any maps for the company during that time? A. I did.

Q. State whether or not you made a map for the company in 1873 showing the line of route of the company from Fort Yuma on the Colorado river, thence northwesterly to the head of San Gorgonio Pass, thence southerly by way of the Potrero of San Jacinto, across the San Jacinto and Temecula plains to the Temecula canyon, and thence down that canyon to the coast; thence down the coast to Old Town, near San Diego, and thence to the bay of San Diego. A. I did.

Q. At what time, as near as you can remember, did you make that map?

A. Part of it was made very soon after I went into the office. There were several maps got out covering that ground during that time.

Q. Please examine Plaintiff's Exhibit "A," filed before Rollins this day, and state whether that map shows the line of route covered by you and shown upon the map made by you for the company in 1873?

A. (Witness examines map, Plaintiff's Exhibit "A.") It does.

Q. State the general description of the line of route as shown by this map.

A. Beginning at the river and going up there across the desert through San Gorgonio, and then we went down across San Jacinto and across Temecula plains down to Temecula, where it strikes the head of Temecula canyon, through Temecula canyon down to the coast, and along the coast to the Pueblo of San Diego, following down on the La Jolla route, and then still following the coast at La Jolla through to San Diego proper on the bay.

Q. From what date and information did you make that map for the company showing that line in '73?

A. From notes furnished by the engineers in the field.

Q. Who had charge of the surveying operations for the company during those years?

A. Major James A. Evans.

Q. Who were the local engineers in the work, so far as you remember?

A. J. U. Crawford; the Reno boys, I cannot tell their initials; and I think Mr. Fox had something to do with some of the lines also—C. J. Fox.

Q. State, if you know, what was the method of the company in surveying and laying out the lines of route?

A. The usual engineering method of staking at every hundred feet or oftener, if necessary, where angle points were made and curves were started and levels taken at these stations, which were the levels and notes for the

construction of the line as returned to the office, and from those the maps and profiles were made up.

Q. You also made profiles of this line?

A. Yes, sir.

Q. State, if you know, whether the Texas & Pacific Railway Company did any grading upon this line.

A. They did.

Q. During what period was that grading done?

A. It must have been during 1873. They may have commenced in '72, but it was '73 I think.

Q. Where was that grading done and how much was done? A. I think about ten miles.

Q. Commencing where?

A. Commencing at their grounds, known as the Texas & Pacific grounds on the bay of San Diego, and from there out through Old Town and up through to the commencement—or up towards Rose's canyon.

Q. In a northerly direction from San Diego?

A. Yes.

Q. They completed the grading for that distance?

A. Practically completed it; yes, sir.

Q. What did it cost, do you remember, for the grading?

A. I could not say. It was all quite easy work. I could not say what.

Cross-Examination.

(By Mr. REARDAN.)

Q. Mr. Sanford, did you plat all of the lines of route appearing upon the map that you have identified here?

A. I think so, but I would have to see the map.

Q. Is there any particular designation of all the lines of route, or anything to designate or identify one line from the other on this map?

A. There was at that time. The different lines were designated by letters; they were carried out by letters.

Q. The one which you have particularly identified was identified by what letter, do you recall?

A. I do not remember, but I think it was Line D.

Q. And these other lines were identified by letters also?

A. I expect so, because that is our usual method in the field, and I know it was carried out on these surveys.

Q. And did you also plat upon that map the line of route from San Diego to Yuma by way of Warner's Pass?

A. No, sir; I don't think there was any made. That is the Memphis and El Paso Road.

Q. This map shows one. When was that placed upon the map? A. I cannot say.

Q. Was that placed upon the map when you made it? A. No, sir; it was not.

Q. A line of route appears upon this same map from San Diego to Yuma, called the direct route, being lower down than the Warner's Pass. Did you plat that?

A. Yes, sir.

Q. What was that made from?

A. That was made from the notes of the Reno boys.

Q. In whose employ were they?

A. The Texas & Pacific.

Q. It was made up of the same character of data as

that you made the other lines of route from appearing upon this map? A. Yes, sir.

Q. How was that survey made?

A. The same method.

Q. Were you assisted in platting the line of route on that map from Yuma to San Gorgonio by information other than that furnished by the Texas & Pacific surveyors? A. Not that I know of.

Q. Had you, prior to making that map, seen any other map of the line of route following the same general lines from San Gorgonio Pass to Yuma?

A. Of course I had seen the Southern Pacific.

Q. You had seen, prior to the making of that map, a Southern Pacific map covering the same line of route?

A. Yes, sir.

Q. Did your line of route follow the same line of route as that? A. I never compared it. I think so.

Q. It goes through the same pass and has the same general direction or way?

A. It has. Technically, I cannot say.

Q. Are you acquainted with the line of route now used by the Southern Pacific Company from San Gorgonio to Yuma?

A. I have seen the maps but I have never compared them with this.

Q. Does the line as constructed and operated by the Southern Pacific follow the lines upon the maps or plats that you saw prior to making your map?

A. Generally speaking, yes, sir.

Q. Does the line of route as now constructed and used follow the line of route platted upon your map?

A. I suppose, generally speaking, it does.

Q. Who furnished you the plat or map of the Southern Pacific road prior to the making of this map by you?

A. I saw it in the office.

Q. Where? A. In San Francisco.

Q. Did you examine it with reference to making your map? A. No, sir.

Q. Did you use it, or any knowledge derived from it, in platting your map?

A. Not that I remember of. I remember of no knowledge coming from that source.

Q. You simply had the data furnished by the field engineers? A. Yes, sir.

Q. Mr. Sanford, will you state about where the road which you say was constructed or graded—what point it extended from in San Diego?

A. From the company's grounds on the bay up to the head of False bay, up to the commencement of Rose's canyon.

Q. The line of route which you have described in your direct examination from San Gorgonio Pass to Temecula is what is known as the direct route? A. Well, yes.

(Signature of witness waived by consent.)

O. N. SANFORD.

SAMUEL G. BENNETT, being first duly and regularly sworn and cautioned to testify the whole truth, was examined, and in answer to the following interrogatories testified as follows:

Direct Examination.

(By JOSEPH H. CALL, Esq.)

Q. What is your name and age?

A. Samuel G. Bennett. I am thirty-five years old.

Q. You reside in Los Angeles? A. Yes, sir.

Q. What is your occupation?

A. Surveyor and draughtsman.

Q. State whether or not you have made a plat showing the route of the Texas & Pacific Railway Company from Fort Yuma northwesterly to the San Gorgonio Pass, thence down the Potrero of the San Jacinto to Temecula canyon on the line to San Diego, showing said line of route in connection with the public surveys, and showing the 20, 30 and 40 mile limits, and also showing the definite location of the Southern Pacific Railroad from Fort Yuma northwesterly through San Gorgonio Pass, upon the same plat?

A. I have made such a map.

Q. Will you please produce it before the commissioner?

(Witness produces map.)

Q. We will offer this map in evidence as Plaintiff's Exhibit "B" herein. State from what data you prepared this plat or map?

A. Well, the line of the Texas & Pacific is made from the annual report to the Government and description of the line of route in '74.

Q. You mean the President's annual report to the Government?

A. Yes, sir. And the Southern Pacific's line of definite location was taken from Defendant's Exhibits numbers 62 and 63, case 184, United States vs. S. P. R. R., in the United States Circuit Court, Ninth Circuit, Southern District of California.

Q. Showing the located and constructed Southern Pacific Railroad?

A. Yes, sir; the Southern Pacific Railroad definite location, and the 20 and 30 mile limit as compiled from Defendant's Exhibits Numbers 320, 321 and 323 in case No. 600, United States vs. Southern Pacific Company. Township lines and topography taken from township plats on file in the United States Landoffice, Los Angeles District.

Q. Did you also use in making that map the map showing the San Gorgonio line of the Texas & Pacific Railroad, which I will briefly describe as the map of the company on file in the Federal Court?

A. Yes, sir; that is Plaintiff's Exhibit No. 1 before G. W. Parker, Special Examiner.

Q. And did you also use the blue print copy of the map which has just been marked Plaintiff's Exhibit "A" before Rollins; this map which is now before you?

A. This seems to be the identical map. That is the identical map that I used; it has the same markings.

Q. Now, state whether the line of the Texas Pacific Railway Company shown upon the blue print map, Plaintiff's Exhibit 1 before Parker, and described in the annual report of the Texas & Pacific Railway Company to the Government in '74, is correctly shown upon the plat

which you have made, in connection with the Government surveys?

A. To the best of my knowledge and belief it is an exact reproduction upon a larger scale.

Q. Upon what scale is that plat made?

A. This is two miles to the inch.

Q. State whether the line of definite location of the Southern Pacific Railroad Company shown upon your map is correctly reproduced from the plats of the company on file in the United States Circuit Court in the cases you have referred to?

A. It is correct, to the best of my knowledge and belief.

Q. And state whether the 20, 30 and 40 mile limits on the line of route as shown upon this map are correctly reproduced from the plats you have referred to?

A. They are correctly reproduced.

Q. I offer this plat in evidence to be marked Plaintiff's Exhibit "B" before Rollins.

Q. You do not show all of the Texas & Pacific Railroad between Fort Yuma and San Diego upon this plat?

A. No, sir.

Q. You only show it through the intersecting limits of the Southern Pacific?

A. I did not show all of the lines as shown on Plaintiff's Exhibit "A"; only the portion from Fort Yuma to the head of Temecula canyon.

Cross-Examination.

(By Mr. REARDAN.)

Q. At whose request was that map made, and when was it made?

A. It was at the request of Mr. Call, at various times as the data has accumulated. I cannot state the times that it was made. Within the last year.

Q. During the last how many months?

A. I should say during the last fifteen months; there was no work done prior to that time.

Q. Was it from data directed to be taken by you?

A. It was made under his instructions.

Q. And from plats and maps suggested to you by him? A. Yes.

(Signature waived by consent.)

I hereby certify that the foregoing testimony, consisting of eleven (11) pages, of the witnesses therein named, was taken down by me in shorthand at the time and place specified, and was thereafter reduced to typewriting by me, and, except where the signature of the witness was waived by consent, the same was read over by said witnesses and corrected by them respectively where necessary, and thereupon said witnesses each subscribed his name thereto as hereinbefore appears, and the same was then sworn to by them respectively before me.

Witness my hand at the city of Los Angeles, this 20th day of July, A. D. 1897. H. S. ROLLINS,

Special Examiner and Stenographer.

[Endorsed]: No. 675. Consolidated. U. S. Circuit Court, Ninth Circuit, Southern District of California. The United States of America vs. The Southern Pacific R. R. Co. et al. Certified copy, order and order directing notice, notice, affidavits, and testimony. Filed Jul. 20, 1897. Wm. M. Van Dyke, Clerk.

22516

FOLD OUT IS TOO LARGE TO BE FILMED

2098

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES, Plaintiffs, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS AND HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY. Defendants.	Consolidated Nos. 675, 587, and 662.

Testimony.

Testimony taken before the undersigned, Clarence L. Trevit at Rooms 1 and 2, No. 505 E street, N. W., in the city of Washington, District of Columbia, on the 30th day of September, A. D. 1897.

In pursuance of the annexed order of this Court, appointing the undersigned special examiner and stenographer therein, fixing the time of notice to be given the defendants, and in pursuance of the annexed notice, duly served on the defendants and their counsel, and it appearing that reasonable and proper notice has been given

to the defendants, the following proceedings were had, at said time and place, there appearing Mr. Joseph H. Call, special assistant U. S. attorney, for the United States, and Mr. E. L. Payson, as counsel and attorney for the defendants.

By direction and consent of all parties, the testimony was taken in shorthand by the undersigned and thereafter to be reduced to typewriting.

And it was further agreed that all formalities as to the taking of said testimony were waived.

It was further stipulated that all parties save and reserve all objections to the testimony as to its competency, relevancy, and materiality.

Thereupon Mr. JOSEPH U. CRAWFORD, being produced as a witness on behalf of the United States, was duly sworn, cautioned, and examined as follows:

Mr. CALL.—Q. State your name.

A. Joseph U. Crawford.

Q. Where is your residence?

A. Fox Chase, Philadelphia.

Q. What is your present official connection with the Pennsylvania Railroad, if any?

A. Engineer of the branch lines.

Q. What do your duties consist of in a general way?

A. Well, new surveys, estimations, and construction of new lines.

Q. And building bridges? A. Yes, sir.

Q. How long have you been in that position?

A. I have been with the Pennsylvania Railroad Company, off and on, since, 1871.

Q. You constructed, under your direction, several large bridges on that railroad, have you not, within the last few years?

A. Yes, sir; a number of bridges and viaducts.

Q. What business were you engaged in, in 1872, 1873, and '74?

A. Well, in the summer of '72, in July, I was here as resident engineer for the A. & T. and the P. & B. R. R.

Q. What year?

A. In the summer of '72; I resigned there and then Colonel Scott sent me to California.

Q. What railroad did Colonel Scott represent and in what capacity?

A. He was president of the Texas & Pacific Railroad Company.

Q. You mean Colonel Thomas A. Scott?

A. Yes, sir.

Q. You did considerable work for the Texas & Pacific Railroad Company, did you not?

A. I think I worked under General Dodge for the California & Texas Railway Construction Company.

Q. Acting for the Texas & Pacific Railroad?

A. I was sent out by the Texas and Pacific Ra ad Company and reported to General Dodge, for the California & Texas Railway Construction Company.

Q. Did you make any surveys in the field under directions from Colonel Scott? A. No, sir; I did not.

Q. What did you do in California?

A. I explored the line leading to and from San Gorgonio summit, as far as Fort Yuma east and San Diego south.

Q. Did you survey the lines from Fort Yuma, between Fort Yuma and the summit of San Gorgonio Pass, and from that summit down the branch of the San Jacinto, across the Temecula plains to the canyon of that name, and thence down the coast to the bay of San Diego?

A. I did.

Q. About what period did you make that survey?

A. During the autumn of 1872.

Q. How many were with you in your surveying party?

A. It was a large party; I think twelve (12) or fourteen (14). I have forgotten.

Q. Did you generally follow the depressions of those points that I have named in making that survey?

A. We sustained ourselves where our grades required it; of course we did not drop immediately into the canyon; we ran such a line as we could construct upon.

Q. How was that survey made—what was the character of it?

A. Well it was chained and staked in order to obtain the topography and in order to construct a profile and make a close estimate.

Q. Did you make reports to the company of the survey, showing the topography, with a profile and map?

A. Yes, sir; I was in the office at San Diego, for quite a while, working on the maps and reports under Major Evans, engineer of that division—California division.

Q. You were in charge of that surveying party under

Major Evans, who was engineer in charge of the surveys for California? A. Yes, sir.

Q. How often were stakes driven, on that line of survey?

A. Well, as often as was necessary; my recollection of it was, we drove stakes every 200 feet on the desert, but whenever we were on the grade we drove them oftener—100 feet.

Q. Can you state when you made a report of the survey of this line to Major Evans or General Dodge?

A. I made a report to Evans, I think in the spring of 1873, after I returned from Fort Yuma.

Q. And do you know whether he reported to General Dodge?

A. Oh, yes; he reported to General Dodge quite fully.

Q. Did I understand you to say that you made a map and profile showing this line?

A. We made a number of maps of different scales, and did all the necessary office work in order to get up a proper and reliable estimate.

Q. And those maps were turned over to the chief engineer?

A. Major Evans had them in charge; I was in his office subject to his orders, and consulted with him when he sent for me. Major Evans and I were brothers-in-law; I married his wife's sister.

Q. There were other surveying parties operating under General Dodge in California to explore a route between the Colorado river and the San Gorgonio Pass at that time, or about that time, were there not?

A. Yes, sir; about that time; one in charge of a man by the name of Reno, which was on the direct line or line running northerly along the border, the southern boundary of the United States.

Q. What was the topography of the country from San Gorgonio Pass southerly to the Mexican boundary, as to being mountainous?

A. It is very rugged. Two of the highest peaks in the range are to the north and south of San Gorgonio Pass.

Q. And the mountain range extends southerly to the Mexican boundary? A. Yes, sir.

Q. And it is a mountainous country?

A. Yes, sir; it is rugged and abrupt.

Q. State how long the Texas and Pacific Company or General Dodge, as chief engineer, was engaged in exploring that mountain range for the purpose of securing a practicable and eligible route between Fort Yuma and the Pacific.

A. I think it began in the summer of '72, and continued his examinations through the winter of '72 and '73 and on into '74.

Q. Who was that?

A. Major Evans; he had three parties; my party, Reno's party, and a man by the name of Wood had a party in the field for a while, on the route of Julian. There were three summits examined—San Gorgonio summit, an intermediate Warner's Ranch summit, and a summit near the Mexican boundary, with the necessary approaches.

Q. These were the lowest passes?

A. Yes, sir; the lowest approachable passes; I call them summits.

Q. The company caused surveys to be made of the line of road through each of these passes or summits?

A. Yes, sir; one under Reno, one under Wood, and one under myself.

Q. Can you give the elevations of those passes?

A. My recollection is that the summit on the direct line, near the southern boundary of the United States, was in the vicinity of 4,000 feet, and the San Gorgonio Pass was between 26 and 27 hundred feet. I have forgotten the Julian or Warner's Ranch summit—the middle summit.

Q. Was it higher or lower?

A. I think it was lower than the summit on the Mexican border and higher than the San Gorgonio summit.

Q. State now, if you know, whether these different surveying parties reported the result of their surveys to Major Evans, with maps and profiles, in order that the company might determine the most practicable and eligible route?

A. Undoubtedly the engineers all reported to Major Evans; he was an active man and a very exact man in making calculations. I never have met in all my experience a man who went as deeply into a question as James A. Evans, before or since—that is, in equating the rise and fall and curvature and general characteristics of one line as against another.

Q. Major Evans reported to General Dodge, did he?

A. Yes, sir; Major Evans was chief of construction

for General Dodge on the Union Pacific, and was close to the general, and the general had a great deal of confidence in him.

Q. In your view, then, the report of Major Evans would be accurate and substantially correct?

A. According to the data he had on hand.

Q. In the location and construction of railroads there is a basis, is there not, or table upon which engineers determine what a given elevation or grade will amount to in distance over a level road, so that while a line of railroad may be longer on the earth's surface, in an engineering point of view it may be shorter?

A. If you mean a standard generally adopted by engineers in order to determine the value of the rise and fall and curvatures, I do not know of any.

Q. I was not referring to curvature, but the elevations, as compared with distance.

A. No general rule can be applied to any railroad; the movement and traffic varies in different directions. I have tried to have our offices adopt some such method in equating one line as against another, and give us certain instructions, so we could absolutely state which was the best line, but it has always been heretofore done by the inspection of profiles and maps, without reducing it to a fixed value. The great writer on this subject is Wellington; some people agree with him, and some differ with him, but he has spent an immense amount of time and experience in trying to establish the data you speak of and formulate a rule for all cases; there are being some experiments made with resistance on curves, so as

to equate curvature resistance as between straight lines. Generally, different companies have different ways; it depends a great deal upon their speed and traffic, but upon the whole question you might say "Doctors differ." and it is the same with railroads.

Q. Have you examined the report of Major James A. Evans, to the company—to General Dodge, chief engineer, dated February 3, 1873, upon the comparison and availability of the different routes through the mountains, between Fort Yuma and bay of San Diego?

A. I was familiar with it at the time it was written, but I have not examined it since, except so far as my report went, which was incorporated.

Q. From your knowledge of the topography and grades, would you say that the report is substantially correct?

A. I don't think they had developed a practicable line on what we call a direct line from San Diego to Fort Yuma, along the southern boundary.

Q. At that time, you mean?

A. At that time or even since.

Q. Well, what do you say as to the estimates of Major Evans in that report, as to measuring grades or altitudes against distances?

A. I think that Major Evans' report, wherein he advised the adoption of the line by San Gorgonio Pass as being commercially the shorter line and best for the company, was correct.

Q. Were you acquainted with General Dodge?

A. Very well.

Q. You knew him in 1872-'73?

A. No; I didn't know him in '73, but I knew him subsequently.

Q. In '74?

A. No, I had never seen General Dodge until in 1876, in Washington. I saw General Dodge first in Washington in '76 and '77, when he was applying for aid here. He was with Col. Scott; that was the first, and I think it was in '76 and '77.

Cross-Examination.

(By Mr. PAYSON.)

Q. You say you saw General Dodge in Washington in 1876 and 1877? A. Yes, sir.

Q. At all events, the time when they were applying for congressional aid—what particular aid was the Texas & Pacific seeking, from Congress at that time, if you remember?

A. To construct the railroad upon the 32d parallel.

Q. And was it not also to secure aid from the Government to the extent that the Government guarantee the bonds issued by the Texas & Pacific Railroad?

A. Yes, sir; as I remember.

Q. In attempting to secure that congressional aid, were you not, in company with Mr. John C. Brown, then vice-president of the Texas & Pacific Railroad Company, and Mr. Frank Bond, who was also an official of the Texas & Pacific Railroad Company?

A. He was vice-president.

Q. Were you not aiding in doing what you could in securing that same aid?

A. In the winter of '77 and '78, I represented—I was one of the committee of two that represented the city of San Diego before the committee of the Pacific Railroads.

Q. Did you, while appearing before the committee on Pacific Railroads, file with them a printed argument in support of the view they took, a copy of which I hold in my hand? A. I did.

Q. And did you in that argument, as appears on page 21, use this language: "The California division of the Texas and Pacific Railway leaves Yuma for a divergent line from the Southern Pacific of California, and is laid in a direct westerly course as far as the eastern base of the Sierras; thence with fair mountain alignment and easy gradient, not to exceed 105 feet per mile, to Ship's Channel, in the bay of San Diego, a distance of 193 miles by rail from the great mining territory of Arizona to tide water, instead of the 720 miles all rail line with which the Southern Pacific of California seek to divert trade from its natural course and carry it per force to the city of San Francisco. This division of the Texas and Pacific Railway can be constructed for one-tenth of the reported cost of the Southern Pacific Railroad of California, as filed with the secretary of the interior. It will have 527 less miles of mountain railroad; it will be a far more favorable line to operate and maintain; its motive power will have a superior efficiency and capacity on account of its reduced grades and curvatures, and the dry rail and favorable roadbed which the climatic and geological formation of the country traversed insures."

A. I did.

Q. I will ask you to look at the copy of Plaintiff's Exhibit No. 21, filed in this case before Longley, special examiner, purporting to be a copy of the portion of the line—the map of the Texas & Pacific Railroad, and its connections. State to this examiner whether the line of road as shown upon this map, marked with a blue line, from Fort Yuma to San Diego, is in substance the line described in this pamphlet of yours on page 21, to which your attention has been called.

A. It is.

Q. What, if anything, or work did you do as a civil engineer under the direction of Mr. Bond, the vice-president of the Texas and Pacific Railroad Company about the year 1877, with reference to the direct line from Fort Yuma to San Diego; state in detail?

A. I was surveying up in the Black Hills, when I got a telegram from Mr. Bond, asking me to go to San Diego and try to reduce the quantities upon the direct line surveyed by Reno. I went there and reconnoitered the ground, organized a surveying party, and was in the field for two or three months—as long as they would pay anything, and as a result I reported a very heavy reduction upon Reno's quantities upon the western slope of the Sierras upon the direct line. Frank Bond then communicated with General Dodge, and General Dodge sent Evans back to California to see me, and to see wherein this reduction could have been made, and whether he would acknowledge that I had improved upon the Reno survey, and I understood—I have not seen Evans' report to Bond and General Dodge—but I understand

he acknowledged that I made a heavy reduction. On the strength of that the people of San Diego appointed me, with David Felsenheld, as a committee, and I went to Washington in the winter of '77 and '78, and appeared before the committee on the Pacific Railroad and did all I could to get the direct line constructed. At that time, if my memory serves me, the Southern Pacific had constructed through San Gorgonio Pass.

Q. (By Mr. CALL.) To Fort Yuma?

A. No; for I went to Fort Yuma in 1877, where I located a crossing for the Texas & Pacific, in order to hold our rights at that crossing and not be interferred with. As money was pretty short in those days, it was some time before I could get any; then I came here and put in a season, and the following season Colonel Scott sent me to Japan.

Q. Then the expression that you used in your pamphlet on page 21 is the result of this work you did in '77 for the vice-president of the Texas and Pacific Railroad?

A. It is the result of my feelings, that having improved the line in one patch and saved over a million dollars, that I could also improve the eastern slope and probably get a good operating railroad within the limits of the Texas & Pacific Railroad on a direct line, but it would not be a direct line as shown on the map because it would be a sort of tortuous line, generally keeping north of the Mexican boundary. We developed north from the summit in order to stay in our own territory.

Q. Is that the route known among engineers as the Carriso canyon route?

A. I will answer that by stating that Carriso canyon occurs upon the eastern slope of the Sierras, and is most formidable to surmount.

Q. Is the Carriso route as distinguished as the San Gorgonio?

A. Yes, sir. We would have tried to avoid this crossing as the distance across this latter route is 193 miles; that is about what I figure it.

Q. About how much of that distance would be east of the crest of the Sierras? A. I couldn't tell you.

Q. About how much?

A. I suppose 125 or 130 miles.

Q. East of what?

A. East of the crest of the Sierra Nevadas.

Q. From Fort Yuma to the Sierra Nevadas?

A. It would not be over 60 or 70 miles from Fort Yuma to the foot of the slope.

Q. Now, the general character of the county from Fort Yuma to the foot of the Sierras is substantially the same, is it not, as the character of the county northwest from Fort Yuma, is it not?

A. It is all desert, but there is more shifting sand on the direct line than there is on the San Gorgonio line that passes north of the sandhills; on the direct line we encountered the sandhills.

Q. (By Mr. CALL.) What is the difference between the two as to being subject to overflow?

A. Well, they are both subject to overflow; the Southern Pacific had to change their line once on account of

overflow; they got below tide, but I think the San Gorgonio route got much lower.

Q. In a general way, about how long were you gentlemen around the capitol here before the committee on Pacific Railroad with reference to this matter of the subsidy, during the session of Congress in 1877 and '78?

A. Practically the whole session; I think I boarded here four or five months.

Q. Mr. John C. Brown at that time was vice-president of the Texas & Pacific Railroad? A. He was.

Q. Do you remember, without being able to identify anything, of the fact of these gentlemen making speeches and having maps, etc., with reference to what the Texas & Pacific was claiming, and what it was going to do in order to get this subsidy?

A. I remember the fact that Governor Brown went before the committee on Pacific railroads, but I cannot remember the fact of what he produced or what happened.

Q. Assuming he was before the committee on the Texas & Pacific Railroads, February 22, 1876, and used in substance this language:

"Mr. Chairman and Gentlemen of the Committee:

"Before proceeding regularly with my argument, I wish at the outset, to say that I have not indulged in personalities, and will not do so. I wish to state, in reply to Mr. Huntington, when he says that Colonel Scott, two years ago, declared that the road could not be constructed over the direct route from Yuma to San Diego, that we have since that time had skillful and intelligent

engineers to go over that country, and they have explored canyons and passes not before examined by our engineers and revised the former line; and they report that the direct line is entirely practicable, and that it can be built at much less cost than similar work done on the Southern Pacific or Central Pacific roads. We have a profile of the route, and the report of the engineer, and know certainly that we can build from Fort Yuma through to San Diego at a cost of less than $36,000 a mile, on the average. There are thirty miles of this route which will be very expensive; some of it may cost $250,000 to $300,000 per mile; but the average will not exceed $36,000 per mile. While not professing to be a skilled engineer, as Mr. Huntington does, I still claim to have some knowledge and practical experience in such matters, and went last summer, with an engineer, over the ground and spent some time in the mountains.

"Mr. HUNTINGTON.—I don't brag on being an engineer; but I have practical common sense.

"Mr. BROWN.—From the facility with which you speak of it, I had supposed you claimed to be an engineer. I myself went carefully over some of the roughest portions of the country; and I have not the shadow of a doubt, but the direct route from Yuma to San Diego, through one of two passes—Carriso canyon, or Warner's Pass—is altogether practicable; and there can be no question but our estimates can be met in accordance with the figures stated."

I will ask you, Colonel Crawford, who the engineers were that he referred to in that speech, if there were any

others besides yourself in the work done over the Reno survey; was there any besides yourself?

A. I don't remember who Col. Evans brought with him. Evans was out there himself in '77, but I have forgotten who were with him, he probably refers to myself and Major Evans.

Q. And when he speaks of revising the former line does he mean the Reno line?

A. It must be the Reno line, but he qualifies that by giving himself latitude, and taking in Warner's Pass—that was north of Carriso canyon—and I think probably giving better results than the direct line.

Q. How far was Warner's Pass?

A. I could not tell exactly; I think 40 or 50 miles.

Q. Looking at this map, appended to these remarks of Mr. Bond entitled "Maps of New Routes," is not the line constructed upon it from Fort Yuma to San Diego identically the same as the line shown in Exhibit 27, now lying upon your knee, between the same point?

A. It is.

Redirect Examination.

(By Mr. CALL.)

Q. That argument before the senate committee was made in 1878? A. Yes, sir.

Q. You say that in 1878 the Southern Pacific Railroad Company had occupied the San Gorgonio Pass?

A. In 1877.

Q. They occupied it in 1877?

A. Yes, sir; I think so.

Q. And it was for that reason that the Texas Pacific Railroad Company were seeking to find a more direct route from Fort Yuma to San Diego?

A. I could not speak for the Texas Pacific Railroad. I was representing San Diego, and they were exceedingly anxious. They thought they were to be left out in the cold by Huntington going through the San Gorgonio Pass, and they wanted a direct line. They thought they would be cut off, and we were there representing them. You notice the report of the committee states that San Diego had more merits in its argument than anywhere else. You will find we made a strong fight to connect San Diego by the direct line. It was a fight for aid and a fight for life for San Diego. I was not in the employ of the Texas and Pacific Railroad. I was elected with David Felsenhelt, to represent San Diego before the committee on the Pacific Railroads, and to what extent we interceded was shown by the evidence.

Q. It is stated in the report of Major Evans and General Dodge that the estimated cost of the direct line was something over twelve million dollars, and the San Gorgonio route something over six millions.

A. Yes, sir.

Q. And you say you reduced the grade on the western slope, and saved something like a million dollars?

A. I reduced the amount of tunnel work. It was not a feasible line—the first line. It hung on the tops of the mountain and had a number of tunnels, and slopes running about two or three thousand feet down. The United States treasury would not have built it—I do not be-

lieve they could build it for that, and consequently I made a development, and got good fast ground and had a profile made, which was practicable, but they gave me no money.

Q. You did not work on the eastern slope?

A. No, none whatever except to reconnoiter.

Q. Can you say from your knowledge of the topography of the county whether the cost could have been reduced on the eastern slope?

A. It is my opinion it could have been reduced.

Q. Can you state how much the total cost could have been reduced?

A. I could not say—I would have tried to keep out of Carriso canyon, if I could.

Q. Which route then would have been the most practicable and eligible—the Carriso route or the San Gorgonio route?

A. It was a matter of getting into San Diego harbor and saving distance, and the arguments were advanced in that way. I think if we would have decided upon a direct route, we would have taken Carriso canyon and Warner's Pass routes, and we would have made a very careful topographical map and tried every possible development that would sustain us. It was a great big question. Probably nothing in the country ever equaled it.

Q. From the surveys that were made even before or after the adoption of the San Gorgonio route, was a more practicable or eligible route found, considering the distances and cost, grade, etc., than the San Gorgonio route?

A. There was no through connecting route found. It was a patched route—a supposititious route on the direct line. It was not so extensively staked as the San Gorgonio route was. We altered it in some places.

Q. What you were looking for, then, was a possible route without a comparison of cost as against the San Gorgonio route?

A. Yes, sir; we were looking for a possible route—within the limits of the Pacific Railroad bill.

Q. Ignoring the San Gorgonio route—that being occupied by the Southern Pacific.

A. Yes; I did not connect my action then with any corporate action of the Texas Pacific, for I knew nothing about it. I simply worked there for a couple of months, and then they dropped me. They would not let me go on. It was a great big subject, and they were hardly prepared to do it justice. It was, you might say, a fight for life of the people of San Diego.

Q. The San Gorgonio Pass route runs through an open pass? A. Yes, sir.

Q. Without any tunneling?

A. Yes, sir; there were no tunnels.

Q. But the other routes to the south, they had tunnels? A. Yes, sir; they had tunnels.

Q. Were there tunnels and fills and heavy grades?

A. Yes, sir; the approaches to the tunnels were on the maximum grades, and are developed on the hillside.

Q. The disadvantages of the southen routes, then, as against the San Gorgonio route, was not only in grades, but in the sliding mountains, was it not?

A. Well, it was a most formidable proposition—the direct line.

Q. The direct line contemplated a great many extensive bridges, did it not?

A. Yes, sir, and some high viaducts.

Q. And long tunnels? A. Yes, sir.

Q. And upon reaching the desert upon the eastern slope of the Sierras, you encountered shifting sands?

A. Yes, sir.

Q. The obstacle of sand shifting by the desert winds was more serious on the southern route than on the northern route, was it not?

A. I should think so. We passed north of the sand-hills on the San Gorgonio route, and there we found a pretty good hard roadbed, but they had trouble on the north route too.

Q. It was then a most difficult matter to select a route between the Colorado river and San Diego, and great difficulties were encountered? A. Yes, sir.

(It is further stipulated that the foregoing deposition, after being transcribed into typewriting, may be read over by the witness and signed by him, and that further verification of the same is hereby waived.)

JOS. U. CRAWFORD.

I further certify that said testimony of said witness was taken down by me in shorthand and reduced to typewriting, and was then read over by said witness and corrected by him, and thereupon the said witness subscribed his name thereto.

Witness my hand, city of Washington, District of Columbia, this the 11th day of October, A. D. 1897.

CLARENCE L. TREVITT,
Special Examiner.

In the United States Circuit Court, Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiff,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Consolidated Numbers 675, 587, and 662.

Testimony taken before the undersigned, Clarence L. Trevitt, at the interior department, in the city of Washington, District of Columbia, on the 5th day of November, A. D. 1897.

In pursuance of the annexed order of this court, appointing the undersigned special examiner and stenographer therein, and in pursuance of agreement by and between counsel for the United States and counsel for the defendants, the following proceedings were had; at

said time and place there appearing Mr. Joseph H. Call, special assistant United States attorney, for the United States, and Mr. E. L. Payson, as counsel and attorney for the defendants.

By direction and consent of all parties, the testimony of Samuel S. Marr and Arthur Martin was taken in shorthand by the undersigned, and thereafter to be reduced to typewriting.

And it was further agreed that all formalities as to the taking of said testimony were waived.

It was further stipulated that all parties save and reserve all objections to the testimony as to its competency, relevancy, and materiality.

Thereupon Mr. SAMUEL S. MARR, being first duly sworn, cautioned, and examined to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

Q. State your name and age.

A. Samuel S. Marr; age, 52 years.

Q. What is your present occupation, and how long have you been so engaged?

A. I am a clerk in the general landoffice, railroad division, and have been there since May, 1877.

Q. Are you familiar with the course of procedure and practice in the department of the interior, by reason of this employment, in all matters connected with the administration of the acts of Congress making land grants to railroads?

A. Yes, sir; I am thoroughly familiar with the practice.

Q. Have you at hand the forms of certificates which are required by the department of the interior, to be used upon maps of definite location, on line of land grants of railroads, since 1867, up to that date?

A. Yes, sir. I present the commissioner with form No. 1 and form No. 2 of the certificates which have thus been required. These are taken from the formula of approved circular of the general landoffice, approved by the secretary of the interior, and they may be marked Exhibits "A" and "B," to my deposition.

Q. You may state what, if any, map of the line of the Texas and Pacific Railway Company, in California, is on file in the general landoffice.

A. A map filed in this office, September 2, 1871, shows the line of the general route of the Texas & Pacific Railroad in California, and that is the only map on file in this office, showing the line in California.

SAMUEL S. MARR.

It was further stipulated that the foregoing deposition, being transcribed into typewriting, may be read over by the witness and signed by him, and that further verification of the same is hereby waived.

CLARENCE L. TREVITT,
Special Examiner.

ARTHUR MARTIN, being first duly sworn, cautioned, and examined to testify to the truth, the whole truth, and nothing but the truth, testifies as follows:

(By Judge PAYSON.)—Q. State your name, age, and present occupation?

A. Arthur Martin; age 53 years; am clerk in the office of the secretary of the interior, division of lands and railroads.

Q. How long have you been in this office?

A. I have been here since 1879.

Q. Are you familiar with the records of this office relating to the Texas & Pacific Railroad Company?

A. Yes, sir.

Q. Are you familiar with the annual reports of the president of the Texas & Pacific Railroad Company, made to the stockholders of that company for the years 1873 to 1877, inclusive? A. Yes, sir.

Q. What action has been taken by the department of the interior as to these several annual reports, except as to acknowledging their receipt and placing them on file?

A. It does not appear by the records that any other action was taken.

Q. You may look at Exhibits "A" and "B," now shown you, and state whether these exhibits show all that was done, so far as appears of record, as to the reports which are referred to in them.

A. Yes, sir; they do.

Judge PAYSON.—I now offer Exhibits "A" and "B," referred to by the witness, to be attached to his deposition, and the same are marked "Martin's Exhibits A and B."

It was further stipulated that the foregoing deposition, after being transcribed into typewritng, may be read over by the witness, and signed by him, and that further verification of the same is hereby waived.

ARTHUR MARTIN.

I further certify that said testimony of said witnesses was taken down by me in shorthand, and reduced to typewriting, and was then read over by said witnesses and corrected by them, and thereupon the said witnesses subscribed their names thereto.

Witness my hand, city of Washington, District of Columbia, this the 9th day of November, A. D. 1897.

CLARENCE L. TREVITT,
Special Examiner.

Defendants' Exhibit "A."

(To Deposition of S. S. Marr.)

A. Marr. 12.

THE UNITED STATES
vs.
THE SOUTHERN PACIFIC RAILROAD CO. et al.

675, 7 and 662, Consolidated. Deft. Exhibit S. S. M. "A." C. L. Trevitt, Special Examiner.

(No. 1.)

——— of ———, } ss.
County of ———.

———————, of ———, in said county and ———, being duly sworn, deposeth and says that he is the chief engineer of the ————, and has been such chief engineer since the ———; that during the period above named ———————— were employed by this deponent as chief engineer for said railroad company, as deputy or division engineers; that the said engineers, as shown by their fieldnotes, verified under oath, did actually survey

and mark upon the ground the line of route of the ——— from ——— to ———, in the sections and at the times respectively designated by dates, which are included between the flagstaffs upon and along the line of route of said railroad as delineated on this map, showing the line of the public survey in connection with the surveyed line of the route; and that the acts of said deputy or division engineers in the premises were duly approved and accepted on behalf of said company by this deponent as said chief engineer of the ———.

———,
Chief Engineer.

Sworn and subscribed this ——— day of ———, before me.

[Seal]

———,
Notary Public.

The map of location must, as shown in the above form, in all cases show the lines of the public survey in connection with the line of route.

Certificates for Maps of the Surveys and Permanent Locations, etc.

Form No. 1. Of engineer's affidavit to map of definite location.

Form No. 2. Of president and engineer's certificate to same.

Form No. 3. Of engineer's affidavit to map of completed portion of railroad.

Form No. 4. Of president's certificate to same.

Form No. 5. Of engineer's affidavit to map of definite location where grant was made to a state or territory.

Form No. 6. Of certificate of governor of State or territory to map of definite location.

Form No. 7. Of certificate of governor to map of completed portion of railroad.

Nos. 1, 2, 3, and 4 to be used when grant was direct to the railroad.

Nos. 1, 3, 4, 5, 6, and 7 to be used when grant was made to the State of territory.

Defendants' Exhibit "B."

(To Deposition of S. S. Marr.)

B. Marr 13.

THE UNITED STATES

vs.

THE SOUTHERN PACIFIC RAILROAD CO. et al.

675, 587 and 662, Consolidated. Deft. Exhibit S. S. M. "B." L. Trevitt, Special Examiner.

(No. 2)

Office of the ———,

———, ———,

———, 18—.

It is hereby certified that, in pursuance of the act of Congress, approved July 1, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," wherein a grant of lands is made by the ——— section to the ———, who are thereby authorized to construct a railroad and telegraph line from ———, and the act of July 2, 1864, amendatory thereof, which ——— to construct said railroad, this map shows the location of the line or route of the ——— from

——— to ———, being a part of the line or route of said railroad as definitely fixed, in compliance with said acts of Congress and in pursuance of the resolution of the board of directors of said company, passed on the ———; and that the dates of the field work thereof are truly indicated along the line, from station to station, upon this map.

In testimony whereof the ——— has caused the same to be signed by its president and engineer, and has attached hereunto its corporate seal at ———, on the day and year first above written.

[Seal]

———,
President.

———,
Chief Engineer.

Attest:

———,
Secretary.

J. I. P. "A" E. H. H.
M. C. McN.

1-480.

(Vignette)

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 29, 1897.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are copies respectively of the original letters on file in this department.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal]

C. N. BLISS,
Secretary of the Interior.

[Written in ink:] Department of the Interior, Jul. 30, 1873.

Texas & Pacific Railway Company.

Office 50 Exchange Place,

New York, July 1, 1873.

Hon. C. Delano, Secretary of the Interior, Washington, D. C.

Sir: In conformity with section 13 of the charter of this company, I have the honor to submit herewith a report exhibiting the financial situation of the Texas & Pacific Railway Co. on the 1st day of July, 1873, embracing in detail its business for the year ending at that date, together with a description of the lines of road surveyed and fixed upon for construction.

I am,

Very respectfully yours,

THOMAS A. SCOTT,

President.

[Written in ink:] Department of the Interior, Nov. 10, 1874.

Texas and Pacific Railway Company.

Office of the President,

Philadelphia, November 7, 1874.

Hon. C. Delano, Secretary of the Interior, Washington, D. C.

Sir: In compliance with the law governing railroad corporations chartered by the general government, I have

the honor to submit herewith a report exhibiting the financial condition of the Texas and Pacific Railway Company on the 1st day of July, 1874, together with the operations of the road for the year ending on that date.

Very respectfully,

THOMAS A. SCOTT,

Pres.

Thos. A. Scott, Prest.

Frank S. Bond, } Vice-Prests.
John C. Brown, }

Geo. D. Krumbhaar, Treasr.

C. E. Satterlee, Secy.

[Written in ink:] Department of the Interior, Sep. 27, 1876.

Executive Office, Texas and Pacific Railway Company,
275 South Fourth Street,
Philadelphia, Pa., Sept. 28, 1876.

Hon. Z. Chandler, Secretary of the Interior, Washington, D. C.

Sir: In obedience to section 13 of the charter of this company, dated March 3, 1871, I have the honor to sub-

mit herewith a report of the operation of the Texas & Pacific Ry. Company for the year ending June 30, 1876.

I am,

Very respectfully yours,

THOMAS A. SCOTT,

Pres. T. & P.

Thos. A. Scott, Prest.

Frank S. Bond, } Vice-Prests.
John C. Brown, }

Executive Office Texas and Pacific Railway Company,

275 South Fourth Street,

Philadelphia, Pa., Oct. 1st, 1877.

Hon. Carl Schurtz, Secretary of the Interior, Washington, D. C.

Sir: In obedience to section 13 of the charter of this company, dated March 3, 1871, I have the honor to submit herewith a report of the operations of the Texas & Pacific Railway Company for the year ending June 30, 1877.

I am,

Very respectfully yours,

THOMAS A. SCOTT,

Pres. Tex. & Pacific Railway Company.

[Endorsed]: The United States vs. Southern Pacific Railroad Co. et al. 675, 662, 587, Consolidated. Defendants' Exhibit A. M. "A." C. L. Trevitt, Special Examiner.

A. Martin	"B"	E. H. H.
J. I. P.	1,480	M. C. McN.

(Vignette)

UNITED STATES OF AMERICA.

Department of the Interior,

Washington, D. C., Sept. 29, 1897.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are copies, respectively, of the original letters of record in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] C. N. BLISS,

Secretary of the Interior.

Department of the Interior.

Washington, D. C., 1st August, 1873.

Sir: I am in receipt of your letter of the 1st ult., transmitting report of Texas and Pacific Railway Company for the year ending 30th June, 1873. It has, with your letter, been filed in this department.

Very respectfully,

B. R. COWEN,
Acting Secretary.

Thos. A. Scott, Esq., Prest. of the Co., 50 Exchange Place, N. York City.

Department of the Interior.

Washington, D. C., 11th November, 1874.

Sir: I am in receipt of your letter of the 7th instant, transmitting the report of *of* the Texas & Pacific Railway Company for the year ending 30th June, 1874. It has, with the report, been filed in the department.

Very respectfully,

B. R. COWEN,
Acting Secretary.

Thos. A. Scott, Esq., Prest. of the Co., Philadelphia, Pa.

Department of the Interior.

Washington, D. C., 28th September, 1876.

Sir: I have received your letter of this date, and the accompanying annual report of Texas and Pacific Railway Company for the year ending 30th June, 1876.

I am sir,

Very respectfully,

Your obt. servant,

CHAS. T. GORHAM,

Acting Secretary.

Hon. Thos. A. Scott, Prest. Tex. & Pac. R. W. Co., 275 South 4th St., Philadelphia, Penn.

Department of the Interior.

Washington, D. C., 2d October, 1877.

Hon. Thos. A. Scott, Prest. of Texas & Pac. R. W. Co., Philadelphia, Pa.

Sir: I have the honor to acknowledge the receipt of your letter of yesterday, and the accompanying report of the Texas and Pacific Railway Company for the year ending 30th June, 1877.

I am, sir,

Very respectfully,

Your obt. servant,

A. BELL,

Acting Secretary.

[Endorsed]: The United States vs. The Southern Pacific Railroad Co. et al. 675, 662, 587, Consolidated. Deft. Exhibit A. M. "B." C. L. Trevitt, Special Examiner.

At a stated term, to wit, the January term, A. D. 1897, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the city of Los Angeles, on Monday, the twelfth day of July, in the year of our Lord one thousand eight hundred and ninety-seven. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

THE UNITED STATES OF AMERICA,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Nos. 675, 587 and 662 Consolidated.

Order Appointing Clarence L. Trewitt Special Examiner, etc.

Upon the application of Joseph H. Call, Esq., special assistant United States attorney, and good cause appearing therefor, and no objection being made by defendants,

it is ordered that Clarence L. Trevitt, Esq., of Washington, District of Columbia, be, and he is hereby, appointed a special examiner and stenographer of this court, to take testimony in said cause at Washington, District of Columbia, and at the city of New York, in the State of New York, said testimony, when so taken, to be transmitted to this Court in accordance with the rules of court.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States, for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original order made and entered by said Court July 12, 1897, in the cause entitled The United States of America, Complainants, vs. The Southern Pacific Railroad Company et al., Defendants, Nos. 675, 587, and 662 Consolidated, and now remaining of record therein.

Attest my hand and the seal of said Circuit Court, this 13th day of July, A. D. 1897.

[Seal] WM. M. VAN DYKE,
Clerk.

[Endorsed]: Nos. 675, 587, and 662 Consolidated. U. S. Circuit Court, Ninth Circuit, Southern District of California. The United States of America vs. The Southern Pacific Railroad Company et al. Certified copy of order appointing special examiner.

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Consolidated Nos. 587, 675, 662.

Notice to Take Testimony.

To the defendants in the above-entitled cause, and to Walter J. Trask, Lewis E. Payson, William Singer, Junior, William F. Herrin, W. H. H. Hart, Page, McCutcheon & Eells, and Butler, Notman, Joline & Mynderse, attorneys and counsel for said defendants:

You will please take notice that on the 30th day of Sept., A. D. 1897, at rooms 1 and 2, number 505, E street,

Northwest, in the City of Washington, District of Columbia, between the hours of ten o'clock in the forenoon, and 4 o'clock in the afternoon, the United States will commence the taking of testimony of Jos. U. Crawford and others in the above-entitled cause before Clarence L. Trevitt, special examiner and stenographer, thereunto appointed by the United States Circuit Court for the Southern District of California.

At the same time and place documentary evidence will also be produced.

Said testimony will be taken orally, and, in pursuance of an order of said special examiner, will be taken in shorthand.

The taking of said testimony will be continued from time to time and from place to place, as may be determined by said special examiner.

You are requested to appear and cross-examine said witnesses.

JOSEPH H. CALL,
Special Assistant U. S. Atty.

State of California, }
County of Los Angeles. } ss.

Berton E. Vickrey, being first duly sworn, deposes and says: That on the 7th day of September, 1897, he served the foregoing and annexed notice of taking of testimony upon the above-named defendants and upon their respective solicitors and counsel as follows:

That he served said Walter J. Trask, as attorney for said defendants, by personally delivering to said Trask

at his office, in the City of Los Angeles, California, a copy of the foregoing and annexed notice on the 7th day of September, 1897.

That each of said defendants in said cause is a non-resident of the Southern District of California, except said Walter J. Trask.

That neither of said solicitors or counsel has designated any place where service may be made upon them, or either of them, in said city of Los Angeles, California, as required by the rules of this court.

That service was further made upon said parties defendant and their solicitors and attorneys, by filing and depositing in the office of the clerk of the United States Circuit Court for the Southern District of California an original duplicate of said notice on the 7th day of September, 1897. BERTON E. VICKREY.

Subscribed and sworn to before me, this 7th day of September, A. D. 1897.

[Seal] GEORGE L. KEEFER,

Notary Public for Los Angeles County, State of California.

[Endorsed]: No. 675 Consolidated. In U. S. Circuit Court. So. Dist. Cal. United States vs. Southern Pac. R. Co. et al. Notice to take testimony. Served Sept. 7, 1897. (Original for J. H. Call.)

In the United States Circuit Court, for the Southern District of California, Ninth Circuit.

THE UNITED STATES,
Plaintiffs,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, and THE COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Consolidated Nos. 587, 675, 662.

Order of Special Examiner Fixing Time for Taking Testimony.

Upon application of Mr. Joseph H. Call, special assistant United States attorney in the above-entitled cause made before me this 30th day of August, 1897, at my office, number 505, E. street, N. W., in the city of Washington, District of Columbia, it is hereby ordered that ten days, exclusive of the day of service, is hereby fixed as the time for service upon the defendants or their coun-

sel for taking testimony in said cause, before me, as special examiner and stenographer, in the city of Washington.

It is further ordered that such service of notice of taking such testimony shall be made in accordance with the rules of the United States Circuit Court, for the Southern District of California.

It is further ordered, upon like application, that the testimony in said cause before me shall be taken down in shorthand by me and thereafter reduced to writing or typewriting by me.

CLARENCE L. TREVITT,
Special Examiner.

Examiner and Stenographer's fees.

September 30, 1897, to per diem as special examiner—one day	$10.00
September 30 and October 1st and 2d, stenographic work and typewriting same, 57 folios, at 20	11.40
Certificate	.25
Total	$21.65

I hereby certify that the foregoing is a true and correct statement of account of fees and charges of special examiner and stenographer.

CLARENCE L. TREVITT,
Special Examiner and Stenographer.

[Endorsed]: No. 675. Order of special examiner. Dep. Fld. Dec. 8, '97. Wm. M. Van Dyke. 675. In the United States Circuit Court, for the Southern District of California, Ninth Circuit. The United States vs. The Southern Pacific Railroad Co. et al. Testimony in behalf of complainants and defendants, taken at Washington, D. C., before Clarence L. Trevitt, special examiner and stenographer. C. L. Trevitt, Special Examiner. Filed May 13, 1898. Wm. M. Van Dyke, Clerk.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES,
Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS, and GERRIT L. LANSING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO RIVER IRRIGATION COMPANY,
Defendants.

Consolidated Nos. 675, 587, and 662.

Testimony.

Testimony taken on behalf of defendants before Stephen Potter, special examiner and stenographer, by

consent and order this day made, at the office of William Singer, Jr., rooms 61, 62, Union Trust building, in San Francisco, California, commencing this 12th day of January, A. D. 1898. Present, Joseph H. Call, Esq., special attorney for the United States, and William Singer, Jr., attorney for the defendants; and there also appeared Mr. W. H. H. Hart, attorney for the defendant Colorado River Irrigation Company.

Thereupon the following proceedings were had:

Testimony of JEROME MADDEN.

JEROME MADDEN, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Mr. SINGER.—Mr. Call, my understanding is that this suit is dismissed as to all lands described in the complainants' amended bill which lie northerly of the southerly thirty mile withdrawal limits for the Atlantic & Pacific grant under the congressional act of July 27th, 1866, and also dismissed as to all lands shown on Exhibit "A" to the defendants' answer, as patented to and sold by the Southern Pacific Railroad Company, except such patented lands as are subject of contract No. 11,322, issued by the Southern Pacific Railroad Company to the defendant Colorado River Irrigation Company. Am I correct in this understanding?

Mr. CALL.—That is my understanding. The dismissals were without prejudice.

Mr. SINGER.—Mr. Call, I will ask you to agree that any differences of description of lands between Exhibit

"A" to the defendants' answer and the order of dismissal may be corrected at any time to conform to that exhibit.

Mr. CALL.—The order of dismissal may be corrected if erroneous, if it includes any lands not shown by said Exhibit "A" to have been patented to the Southern Pacific Railroad Company and sold prior to this suit, other than the lands described in the contract of the Colorado River Irrigation Company.

Mr. SINGER.—Suppose the order of dismissal omits lands shown by Exhibit "A" to have been patented to the company and sold by it, other than the lands of the Colorado River Irrigation Company's contract, may it also be corrected in respect of such lands?

Mr. CALL.—Yes.

Mr. SINGER.—Q. You are the land agent of the Southern Pacific Railroad Company, one of the defendants in this action, are you not? A. I am.

Q. How long have you been such land agent?

A. Twenty-one years and eight months.

Q. Are you the custodian of the contracts issued by the Southern Pacific Railroad Company for the sale of its lands? A. I am.

Q. Do you keep a record in your office of all the deeds issued by the company conveying lands sold by it?

A. I do.

Q. Do your records correctly show all contracts and deeds issued by the company for the sale of its lands, and the price of such sales?

Mr. CALL.—Objected to as incompetent, immaterial, and irrelevant.

A. They do.

Mr. SINGER.—Q. The complainants' amended bill in this suit, as it stood before it was dismissed as to any of the lands, included all odd-numbered sections within thirty miles of that portion of the Southern Pacific's branch line railroad which extends from the west line of range 7 west to the Colorado river; did you ever prepare a statement showing the status of the lands sold by your company within the limits defined by the amended bill?

(Same objection.)

A. I made such a statement.

Q. Have you a copy with you of the statement you made?

(Same objection.)

A. I have.

Q. Will you kindly produce it?

(Same objection.)

A. I produce a press copy of the statement. (Producing.) It was delivered to Mr. Singer between the dates of July 3d, 1896, and July 11th, 1896; it consists of all the matter contained on and from pages 1 to 417, inclusive, of book marked "A1"; Mr. Singer wanted it made very much in detail, and of course I complied with his wishes in the matter.

Q. Have you with you a form of the sheet upon which that was written?

(Same objection.)

A. I have; here it is. (Producing blank form.)

Mr. SINGER. We will ask that that be admitted in evidence and marked "Defendants' Exhibit No. 44."

(Blank form used for showing the status of lands sold is marked "Defendants' Exhibit No. 44," and annexed hereto.)

(Same objection.)

Q. Was that statement made by you or under your supervision?

(Same objection.)

A. It was made by my direction and under my immediate supervision by clerks in the landoffice of the Southern Pacific Railroad Company.

Q. Is it a correct statement of all the matters shown upon the sheets?

(Same objection.)

A. Personally, I have not examined it, but I believe that it is, and believing so, I swear that it is.

Q. Was it compared and checked with the records of your office in respect to all the matters disclosed upon it?

(Same objection.)

A. It was compared and checked with very great care.

Mr. SINGER.—I will withdraw Mr. Madden for a few moments and be sworn myself.

JEROME MADDEN.

Testimony of WILLIAM SINGER, Jr.

WILLIAM SINGER, Jr., called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

The WITNESS.—The original sheets, paged from No. 1 to No. 417, a press copy of which has just been presented by the witness Jerome Madden, was given to me by him for the purpose of an exhibit to the answer of the defendants now on file in this suit. I drafted the answer of the defendants in this suit and made Exhibit "A" a part of it by reference. he sheets which constitute Exhibit "A" are the identical sheets given me by Mr. Jerome Madden, and about which he has testified. I made up Exhibit "A" from them without any alteration whatsoever, and the Exhibit "A" as now on file in the office of the clerk of this court is composed of the identical sheets about which Mr. Madden has testified.

(The signature of William Singer, Jr., to his testimony as above given was waived by counsel.)

Testimony of JEROME MADDEN (Continued.)

Mr. SINGER.—I will now offer in evidence, as Defendants' Exhibit No. 45, Exhibit "A" to the defendants' answer in this suit, filed in the office of the clerk of this court on or about July 23d, 1896.

(Same objection.)

Q. How many forms of contracts have been used in your office in making sales of the company's lands?

(Same objection.)

A. Except a special contract that was made with the Colorado River Irrigation Company, there are two, one for patented lands, and the other for unpatented lands.

Q. Have you with you the contract made with the Colorado River Irrigation Company of which you have spoken?

(Same objection.)

A. Yes; this is the special contract that I spoke of as having been made the 8th of December, 1893, between the Southern Pacific Railroad Company, the party of the first part, and the Colorado River Irrigation Company, of Colorado, the party of the second part. (Producing contract.)

Q. That contract is numbered 11,322, is it not?

(Same objection.)

A. The contract is numbered 11,322.

Mr. SINGER.—I will offer the contract in evidence, and ask that it be marked as "Defendants' Exhibit No. 46," and that a copy be made by the examiner and attached to the record, and the original returned to Mr. Madden. Will you object, Mr. Call, to the substitution of a copy for the original?

Mr. CALL.—No objection. Let the copy be compared by the examiner and certified by him.

Mr. SINGER.—Yes, sir.

(Same objection to the offer.)

(Contract for a deed No. 11,322, Southern Pacific Railroad Company to the Colorado River Irrigation Company, dated December 8th, 1893, is marked "Defendants' Exhibit No. 46," a copy of which, duly certified by the examiner, is annexed hereto.)

Q. Have you with you the forms of contract used by you in the sale of lands?

(Same objection.)

A. I have; that is the form of contract that was used for the sales of unpatented lands. (Producing blank form.)

Mr. SINGER.—I will now introduce in evidence the form of contract for the sale of unpatented lands produced by the witness, and ask that it be marked "Defendants' Exhibit No. 47."

(Same objection.)

(Blank form of contract for a deed of unpatented lands is marked "Defendants' Exhibit No. 47," and annexed hereto.)

Q. For what class of lands do you say this contract for unpatented lands is used for the sale of?

(Same objection.)

A. It is used for the sales of lands for which the Southern Pacific Railroad Company have not yet received patents.

Q. You may state whether all the contracts, an abstract of which appears on the Exhibit "A" to the defendants' answer, for lands unpatented, are written upon the form of contract labeled "Unpatented form," just introduced in evidence.

(Same objection.)

A. To the best of my knowledge they re.

Q. Excepting the Colorado River Irrigation Company contract No. 11,322?

(Same objection.)

A. Excepting the Colorado River Irrigation Company contract No. 11,322.

Q. You may state whether all the sales of unpatented lands abstracted on the sheets in Exhibit "A" to defendants' answer in this cause represent genuine transactions?

(Same objection.)

A. Indeed they do.

Q. Was the amount in each instance there shown to have been received the actual amount received by the company for the sale of the lands?

(Same objection.)

A. Indeed it was; I never knew and never have had any one instance of any sale that was not genuine.

Q. Did the persons purchasing the unpatented lands under those contracts or deeds purchase in good faith, believing the company to be the owner of the lands?

(Same objection.)

A. They purchased absolutely in good faith, paid their money, and believed that they were going to get a title, and by that I mean that they believed that the Southern Pacific Railroad Company had such a claim to the land, if claim I may call it, that it would actually ripen into a title.

Q. Was the land in each instance sold for its full value, as you appraised and believed it to be at the time?

(Same objection.)

A. It was sold for its full value; it was examined with a great deal of care, and after the report of the land examiner, or land grader, was brought in, it was examined in the office with a great deal of care, and it was all sold for the graded price.

Q. Was there in any instance a reduced price fixed for any land because of a supposition or belief that possibly or probably the company's title was not as good as it might be?

(Same objection.)

A. There never has been one instance of that kind; in fact, the Southern Pacific Railroad Company does not do, as far as my knowledge extends, anything of that kind.

Q. Can you produce all the contracts and deeds for unpatented lands abstracted on Exhibit "A" to defendants' answer?

(Same objection.)

A. I can, except, perhaps, some of them may be used as exhibits in a court of law, and some very few of them may be in a condition of that kind.

Mr. SINGER.—Mr. Call, I will, if you desire, produce each contract and deed abstracted on the sheets which make up Exhibit "A" to the defendants' answer, if you require me to, but I will ask, in the interest of economy of time, expense, and the record, that you satisfy yourself in respect of the correctness of Exhibit "A," and excuse the production of the contracts and deeds.

Mr. CALL.—I will waive the production of the original contacts and deeds, and substitute therefor the abstract showing sales contained in Exhibit "A" attached to the answer, together with the form of contract under which those sales were made, which has been offered in evidence and marked "Defendants' Exhibit No. 47." Is that satisfactory?

Mr. SINGER.—That is satisfactory.

Q. Have you used more than one form of deed in executing the sale of unpatented lands?

(Same objection.)

A. There were very few deeds made for unpatented

lands; for lands of all descriptions we have used this form of deed. (Producing blank form.)

Mr. SINGER.—I will introduce the form of deed referred to by the witness in evidence, and ask that it be marked "Defendants' Exhibit No. 48."

(Same objection.)

(Blank form of deed marked "Defendants' Exhibit No. 48," and annexed hereto.)

Mr. CALL.—Will you permit me to ask the witness a question at this time?

Mr. SINGER.—Certainly.

Mr. CALL.—Q. You say in making deeds for some of the tracts in Exhibit "A" which are unpatented that you used this form which you now produce, and in some instances you gave a quitclaim deed; did I understand you correctly?

A. Yes; as I said before, there were very few deeds issued for unpatented lands; of which few some were grant, bargain, and sale deeds according to that form presented, and a few were sold by quitclaim deed, practically on the same form as that, except that the conveying words were changed from "grant, bargain, and sole," to "remise, release, and quitclaim."

Mr. SINGER.—Q. Approximately, about how many deeds for unpatented lands in this suit are of the quitclaim form, would you say?

(Same objection.)

A. I could not tell exactly without making examination, but I should not say that there were more than probably three or four—half a dozen, at the outside; maybe not so many.

Mr. CALL.—Q. And how many of the other form?

A. Maybe two or three, three or four.

Mr. SINGER.—Q. Wherever a deed has been made of unpatented land it is shown upon the sheets in Exhibit "A" to the defendants' answer, is it not?

(Same objection.)

A. Yes.

Q. Have you with you any of the lists selecting lands of the Southern Pacific branch line grant, which lands have not yet been patented?

(Same objection.)

A. I have.

Q. Will you produce them?

(Same objection.)

A. Here they are. (Producing lists.)

Mr. SINGER.—The lists produced by the witness are lists numbers 12, 40, 49, 64, 70, and 89. I will now introduce in evidence list No. 12 of lands selected by the Southern Pacific Railroad Company within the granted limits, Los Angeles, landoffice, dated December 19th, 1893, on the cover, and will ask that the examiner make a copy of the certificates thereof and so much of the lands described as are shown on Exhibit "A" not to have been patented to the company. Is that satisfactory?

Mr. CALL.—There is no objection to substituting a copy for the original, saving the same objections.

(Marked "Defendants' Exhibit No. 49," and certified copy of the portions referred to in the offer annexed hereto.)

Mr. SINGER.—I will introduce in evidence list No. 40 of lands selected by the Southern Pacific Railroad Com-

pany within the granted limits, Los Angeles landoffice, dated April 23d, 1888, on the cover, and will ask that the examiner make a copy of the certificates thereof and so much of the lands described as are shown on Exhibit "A" to defendants' answer not to have been patented to the company.

(Same objection, but objection to substituting the copy for the original waived.)

(List No. 40 is marked "Defendants' Exhibit No. 50," and a certified copy of the portions thereof referred to in the offer is annexed hereto.)

Mr. SINGER.—I will offer in evidence list No. 49 of lands selected by the Southern Pacific Railroad Company within the granted limits, Los Angeles landoffice, dated November 25th, 1889, on the cover, and will ask that the examiner make a copy of the certificates thereof and so much of the lands described as are shown on Exhibit "A" to the defendants' answer not to have been patented to the company.

(Same objection, waiving objection to substitution of a copy for the original.)

(List No. 49 is marked "Defendants' Exhibit No. 51," and a certified copy of the portions thereof referred to in the offer is annexed hereto.)

Mr. SINGER.—I offer in evidence list No. 64 of lands selected by the Southern Pacific Railroad Company within the granted limits, Los Angeles landoffice, dated October 26th, 1891, on the cover, and will ask that the examiner make a copy of the certificates thereof and so much of the lands described as are shown on Exhibit "A"

to defendants' answer not to have been patented to the company.

(Same objection, waiving objection to the substitution of the copy of the original.)

(List No. 64 is marked "Defendants' Exhibit No. 52," and a certified copy of the portions of same referred to by counsel in his offer is annexed hereto.)

Mr SINGER.—I introduce in evidence list No. 70 of lands selected by the Southern Pacific Railroad Company within the granted limits, Los Angeles landoffice, and will ask that the examiner make a copy of the certificates thereof and so much of the lands described as are shown on Exhibit "A" to the defendants' answer not to have been patented to the company.

(Same objection waiving objection to the substitution of a copy in lieu of the original.)

(List No. 70 is marked "Defendants' Exhibit No. 53," and a certified copy of the portions thereof referred to by counsel in his offer is annexed hereto.)

Mr. SINGER.—I will introduce in evidence list No. 89 of lands selected by the Southern Pacific Railroad Company within the granted limits, Los Angeles landoffice, dated May 21st, 1896, on the cover, and will ask that the examiner make a copy of the certificates thereof and so much of the lands described as are shown on Exhibit "A" to the defndants' answer not to have been patented to the company.

(Same objection, waiving objection to the substitution of a copy for the original.)

(List No. 89 is marked "Defendants' Exhibit No. 54,"

and a certified copy of the portions thereof referred to by Mr. Singer in his offer is annexed hereto.)

Mr. SINGER.—Mr. Call, we stipulated in suit No. 587 consolidated here that either party might introduce any documents introduced in evidence in suit No. 68, or No. 184 on the docket of this court, each of which suits was brought by the United States against the Southern Pacific Railroad Company and others ,without objection to such document because of its being a part of the record of another case, subject to all objections as to its competency, materiality, and relevancy. May that stipulation still continue in this suit?

Mr. CALL.—Yes. I am agreeable to extending the stipulation to the present consolidated suit.

Mr. SINGER.—I will now offer in evidence the trust mortgage made April 1st, 1875, by the Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis as trustees, being Defendants' Exhibit No. 90" in suit No. 184 on the docket of this court, brought by the United States against the Southern Pacific Railroad Company and others, and ask that it be admitted as "Defendants' Exhibit No. 55 in this suit.

(Same objection.)

Mr. SINGER.—Mr. Call, you are familiar with the facts, and it will save time for you to admit that prior to the commencement of these suits Gerrit L. Lansing was substituted for Lloyd Tevis as trustee under this mortgage, and that thereafter Lansing died, and on March 21st, 1896, Homer S. King was substituted for him as such trustee. I will ask you to admit that.

Mr. CALL.—Yes; those facts are admitted, with the understanding that the suit was continued against the present trustees.

Mr. SINGER.—My understanding is that Homer S. King has ben substituted for Lansing as trustee.

Mr. CALL.—Yes.

Mr. SINGER.—I will offer in evidence the trust deed made on August 25th, 1888, by the Southern Pacific Railroad Company to the Central Trust Company of New York, which appears as the "Defendants' Exhibit No. 91," in suit No. 184, on the docket of this court, brought by the United States against the Southern Pacific Railroad Company and others, and ask that it be admitted in evidence in this case as "Defendants' Exhibit No. 56."

(Same objection.)

Mr. SINGER.—I will offer in evidence testimony of William Salomon, taken before Patrick A. Nolan, a notary public in Kings county, New York, on November 6th, 1893, on behalf of the defendants in suit No. 184 on the docket of this court, brought by the United States against the Southern Pacific Railroad Company and others, and ask that it be admitted and marked "Defendants' Exhibit No. 57" in this case.

(Same objection.)

Mr. SINGER.—I will also offer in evidence the testimony of George T. Folsom, taken before special examiner Stephen Potter on August 6th, 1896, in suit No. 600, on the docket of this court, brought by the United States against the Southern Pacific Railroad Company and others, and ask that it be admitted in evidence and marked "Defendants' Exhibit No. 58" in this suit.

(Same objection.)

Mr. SINGER.—I will also offer in evidence the testimony of Frank S. Douty, taken before special examiner Stephen Potter on August 6th, 1896, in suit No. 600 on the docket of this court, brought by the United States against the Southern Pacific Railroad Company and others, and ask that it be admitted in evidence as "Defendants' Exhibit No. 59" in this suit.

(Same objection.)

Mr. SINGER.—I will offer in evidence a copy, certified on September 29th, 1897, by Binger Hermann, as commissioner of the general landoffice, of a leter dated April 24th, 1896, from Hoke Smith, secretary of the interior, to the commissioner of the general landoffice:

A letter dated April 28th, 1896, from S. W. Lamoreaux, commissioner, to the secretary of the interior.

A letter dated April 28th, 1896, from Harry King, chief of the drafting division, to the commissioner of the general landoffice.

A letter dated April 29th, 1896, from S. W. Lamoreaux, commissioner to the secretary of the interior.

All attached together, under the same certificate, and ask that they be admitted in evidence as "Defendants' Exhibit No. 60."

(Same objection.)

(Marked "Defendants' Exhibit No. 60" and annexed hereto.)

Mr. SINGER.—Mr. Call, I will exhibit to you three several certified copies of maps, each certified on April 26th, 1897, by Binger Hermann, as commissioner of the general landoffice, to be a true copy of the original, one purport-

ing to be a copy of the map of the State of California, published by the department of the interior for the year 1876; another purporting to be a similar map published by the department of the interior for the year 1879; and the third purporting to be a similar map published by the department of the interior for the year 1885; upon each of which a line is shown labeled "Texas Pacific Railroad," which line follows substantially the course of the line shown upon the Atlantic and Pacific withdrawal map in evidence, filed in the office of the commissioner of the general landoffice in September, 1871, and upon each map is also shown a twenty mile withdrawal line extended parallel to the railroad line; and will ask that in order to save the expense of the maps in the record that you admit that the maps, if introduced, would show as here stated.

Mr. CALL.—That is agreeable, and the fact shall be so stipulated, subject to my objection as immaterial and irrelevant.

Mr. SINGER.—Q. Have you with you the patents from the United States which convey to the Southern Pacific Railroad Company the lands subject to this suit, and not described on Exhibit "A' to the defendants' answer because of not having been sold by the company?

(Same objection.)

A. I have here fifteen patents which show lands within the territory mentioned in this case, and which have not been sold by the company; that is to say, some lands described in these patents have been sold, and some have not. (Producing patents.)

Mr. SINGER.—I will offer in evidence patent No. 2, produced by the witness, from the United States to the Southern Pacific Railroad Company, dated April 4th, 1897, and wil ask that the examiner copy so much of it as conveys lands involved in this suit but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 61," and then return the original to me. Is that satisfactory?

Mr. CALL.—Yes.

(Same objection.)

(Patent No. 2 is marked "Defendants' Exhibit No. 61." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 3, issued by the United Staes to the Southern Pacific Railroad Company, dated December 2d, 1880, and ask the examiner to copy so much of it as conveys lands involved in this suit but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 62,' and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 3 is marked "Defendants' Exhibit No. 62." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 6, issued by the United States to the Southern Pacific Railroad Company, dated December 27th, 1883; and ask the examiner to copy so much of it as conveys lands involved in this suit but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 63," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 6 is marked "Defendants' Exhibit No. 63." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 7, issued by the United States to the Southern Pacific Railroad Company, dated December 27th, 1883, and ask the examiner to copy so much of it as conveys lands involved in this suit but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 64," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 7 is marked "Defendants' Exhibit No. 64." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 9, issued by the United States to the Southern Pacific Railroad Company, dated January 9th, 1885, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 65," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 9 is marked "Defendants' Exhibit No. 65." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 18, issued by the United States to the Southern Pacific Railroad Company, dated October 7th, 1891, and ask the examiner to copy so much of it as conveys lands involved

in this suit but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 66," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 18 is marked "Defendants' Exhibit No. 66." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 23, issued by the United Staes to the Southern Pacific Railroad Company, dated November 5th, 1892, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 67," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 23 is marked "Defendants' Exhibit No. 67." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 25, issued by the United States to the Southern Pacific Railroad Company, dated August 15th, 1894, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 68," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 25 is marked "Defendants' Exhibit No. 68." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 27, issued by the United States to the Southern Pacific Rail-

road Company, dated November 28th, 1894, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 69," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 27 is marked "Defendants' Exhibit No. 69." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 28, issued by the United States to the Southern Pacific Railroad Company, dated December 22d, 1894, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to defendants' answer, and attach it to the record as "Defendants' Exhibit No. 70," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 28 is marked "Defendants' Exhibit No. 70." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 29, issued by the United States to the Southern Pacific Railroad Company, dated October 9th, 1895, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 71," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 29 is marked "Defendants' Exhibit No. 71." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 30, issued by the United States to the Southern Pacific Railroad Company, dated January 20th, 1896, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 72," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 30 is marked "Defendants Exhibit No. 72." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 31, issued by the United States to the Southern Pacific Railroad Company, dated February 12th, 1896, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 73," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 31 is marked "Defendants' Exhibit No. 73." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 32, issued by the United Staes to the Southern Pacific Railroad Company, dated May 7th, 1896, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 74," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 32 is marked "Defendants' Exhibit No. 74." See stipulation on page 28 of this record.)

Mr. SINGER.—I will offer in evidence patent No. 33, issued by the United States to the Southern Pacific Railroad Company, dated June 22d, 1896, and ask the examiner to copy so much of it as conveys lands involved in this suit, but not described on Exhibit "A" to the defendants' answer, and attach it to the record as "Defendants' Exhibit No. 75," and then return the original to me.

(Same objection, waiving objection to a copy being substituted in lieu of the original.)

(Patent No. 33 is marked "Defendants' Exhibit No. 75." See stipulation on page 28 of this record.)

(It is stipulated that the persons named in Exhibit "A," attached to the answer, as having purchased or contracted to purchase lands therein described, not patented to the defendant railroad company, would, if produced as witnesses, testify that such purchases, or contracts to purchase, were made at the times severally therein stated, and according to the terms of the contract shown in form of contract marked "Defendants' Exhibit 47," or deed marked "Defendants' Exhibit 48," as the case may be, and as shown by said Exhibit "A" attached to the answer; and would further testify that such purchases or contracts to purchase were made in good faith and without notice of any invalidity of title, except that conveyed by the public laws and records, and that notice, if any, conveyed by the terms of said contracts and deeds; and that the sums of money shown by said Exhibit "A"

attached to the answer to have been paid were in fact paid at the times severally shown therein.)

(And it is further stipulated that such evidence may be deemed to be before the Court in this case, subject to all objections as to its competency, materiality, and relevancy.)

(The further taking of testimony before the examiner was thereupon continued, by consent of counsel, until Thursday, January 13th, 1898, at the hour of 1:30 o'clock P. M.)

San Francisco, January 13th, 1898.

(By consent of counsel, the taking of testimony herein was this day continued until Friday, January 14th, 1898, at the hour of 9:30 o'clock A. M.)

San Francisco, January 14th, 1898.

Testimony of JEROME MADDEN (continued).

Mr. SINGER.—Q. Mr. Madden, what is this statement which I now hand you? (Document shown witness.)

(Same objection.)

A. This is a statement that was made under my direction of all the lands in this case patented to the Southern Pacific Railroad Company and unsold on July 23d, 1896; it consists of six and a half pages, and represents 107,419 38-100 acres.

Q. Have you checked and compared the list with the patents and the records of your office, so as to know whether it is correct or not?

(Same objection.)

A. It has been very carefuly checked and compared, and it is absolutely correct.

Mr. CALL.—Q. This list, or table, which you have here, contains a description of the lands, the number of acres in each tract, the number of the patent, and date of the patent, does it not? A. It does.

Mr. SINGER.—I will now hand the examiner the statement about which Mr. Madden has just testified, and ask that he compare it with the patents exhibited, and, if found to be correct, that this statement be substituted in evidence for the patents mentioned upon it, and that, in lieu of copying the portions of the patents conveying the lands described upon the statement that the statement be accepted as evidence, after having been certified by the examiner.

Mr. CALL.—I will consent that the statement may be compared by the examiner, and, if found to be correct, to be certified as correct by the examiner, and that then the statement may be substituted in lieu of the patents, with the same effect as if the patents themselves were introduced in evidence, subject to objections as to relevancy and materiality.

(The statement referred to, bearing the heading "Land Department, So. Pac. R. R. Co. Case 675, U. S. vs. S. P. R. R. Co. Texas Pacific Overlap Suit. Statement showing lands in above suit, outside of the Atlantic & Pacific R. R. Grant, patented to the Southern Pacific Railroad Co., and unsold on July 23, 1896," is marked "Defendants' Exhibit 76," and is annexed hereto, together with the certificate of the examiner.)

JEROME MADDEN.

Testimony of W. H. H. HART.

W. H. H. HART, called as a witness on behalf of the defendants, being first duly sworn, testified as follows, on January 12th, 1898:

Mr. SINGER.—Where do you reside?

A. In the city and county of San Francisco.

Q. You are the attorney for the defendant Colorado River Irrigation Company, are you not?

A. Yes, sir.

Q. Are you familiar with the terms of contract No. 11,322 issued by the Southern Pacific Railroad Company to the Colorado River Irrigation Company on December 8th, 1893? A. Yes, sir.

Q. I will state to you that contract is in evidence. Are you familiar with the expenditures made by the irrigation company upon the lands of that contract?

Mr. CALL.—I would like to interpose a general objection. Objected to as incompetent, immaterial, and irrelevant, and because the lands are not included in any grant to the Southern Pacific Railroad Company.

A. Upon them and those contiguous and adjacent thereto, yes.

Mr. SINGER.—Q. What is the nature of the expenditures made by the company, and the cost thereof?

(Same objection.)

A. Their nature consists of the purchase of a heading for a canal above Yuma, the prolongation of the surveys from there down to the international line between Mexico and the United States, the prolongation

of that line over the delta of the Hardy Colorado lying between the Colorado river and the Hardy Colorado, following the contour lines of gravitation, and prolonging that line on the contour of the country back into California, and along and through these lands up to a point called Flowing Wells, then across the railroad to the northeast side thereof, following the contour of the country to a point a short distance south of Las Palmas, which surveys were very carefully marked upon the ground, so far as I examined them, which was about one-half of the way, but not continuous; and also consists of the securing of a town site and power plant one mile north of the international line, where the surveys were made and completed for a water power, a drop of twenty-two feet, and at the heading of this canal there has been expended in the neighborhood of $21,000 in excavation, and the survey above the international line opposite Yuma passes through a portion of the Indian reservation, and considerable grading has been done, the total grading, so far as comes within my knowledge, amounting to a little over $21,000; the total surveys and expenditures in locating the canals in Mexico and in the State of California and securing the headings and right of way cost in the neighborhood of $167,000 in actual money.

Q. What are the purposes of these surveys and expenditures?

(Same objection.)

A. For the purpose of locating, excavating, and operating a canal for the purpose of conveying water from

the Colorado river upon other lands, and especially upon these lands, which water, by reason of the contour of the country, has to be taken out of the Colorado river above Yuma, and then carried by canal into Mexico, and back again into the United States, in order to get around the sand dunes and hills that lie between the Salton Sea country and the Hardy Colorado and the Colorado in California, and in no other way can these lands be improved or water secured for their outlet for settlement.

Q. Are the lands of this contract of a highly cultivatable character?

(Same objection.)

A. With water, yes; without water, no.

Q. Do you think of anything else you would like to say in connection with the claims of the irrigation company?

(Same objection.)

A. Simply this: that the irrigation company is prepared to go ahead with its work; that much litigation pending among themselves has been settled and compromised and adjusted, and that they are desirous of going on and completing this contract as soon as the title can be perfected and litigated.

Q. Is the company prepared to pay the purchase price provided for in the contract mentioned, and execute it upon the perfection of the Southern Pacific's title?

(Same objection.)

A. Yes, sir, without question. I will also state that the company has gone to a great expense in diplomacy and negotiations with the Mexican government in order

to obtain the permit to bring the water back again into California after it went over into Mexico, in order to cover these lands; and that without a community of action on the part of the two governments these lands could not be irrigated, and that this company has accomplished that result, and at a great deal of expense. Another thing I want to say is that at no other place on the Colorado river below where this canal was located can a ditch be taken out, for the reason that it is a sandy and a movable, decomposing cement chalk, but where the heading of this canal is located it is taken out of solid rock, and the head has already been prepared for the receiving of the water to be carried along as far as the canal can be completed, and on account of this suit, as well as the depression of the times, has been the cause of the delay.

Q. Did you conduct the purchase on behalf of the irrigation company?

(Same objection.)

A. Yes, sir; I represented the irrigation company in obtaining this contract from the Southern Pacific Railroad Company, and at that time we supposed that they had a right to make the contract, and we contracted believing that to be the case.

Q. At that time you had no knowledge of any adverse claim of the United States as to the Southern Pacific grant?

(Same objection.)

A. No actual knowledge; we had knowledge, perhaps, of the laws, but we supposed—at least, I did—that there was no question about it.

Q. The Colorado River Irrigation Company is an American corporation, is it not?

(Same objection.)

A. It is a corporation, yes, sir, created under the laws of the State of Colorado.

Q. You may state whether or not the contract as entered into on the part of this company was a genuine transaction in good faith, believing in the Southern Pacific Railroad Company's title by its grant to those lands?

(Same objection.)

A. Yes, sir; and we have obtained subscription for stock which will give us the incurring of an obligation of $1,347,000 to complete the canal with a view of covering these identical lands, which would not have been undertaken if it had not been for this company.

Q. You spoke of the irrigation system as also contemplating other lands. To what extent does it contemplate lands not subject to this contract?

(Same objection.)

A. Only the lands that lie below it and necessarily covered by the canal, if it had been built for these lands at all; in other words, it is not built for other lands, but especially for this land, and the other is simply an incident from the fact that they lie below the canal.

Q. Does your corporation own the other lands that you speak of?

(Same objection.)

A. In the Indian reservation, no. The Indian reservation, at our instance, was thrown open to sale and settlement, but we did not own the lands. The lands in

Mexico were the lands which were originally known, and are still known, as the Blythe concession lands, but the title is imperfect, and the canal was not built for the purpose of supplying those lands, but for the purpose of supplying these lands in this contract.

Q. About what area, generally speaking, does your corporation own legal or equitable rights to beyond the area of the contract mentioned?

(Same objection.)

A. Do you mean for water or for lands?

Q. Lands?

(Same objection.)

A. 320 acres of land at the heading of the canal, which was purchased for the purpose of the canal, and the school sections through which the canal run, but no others.

Q. Is there anything else you desire to state in connection with this matter?

(Same objection.)

A. I will state that unless the company could secure these lands and the fulfillment of the title it seems to me it would be a useless expedient to complete the construction of the canal, unless the title is secured by persons who would pay for water rights; in other words, the entering into this contract and these lands were and are the objective point of the irrigation scheme, and the lands lying between these lands and the Hardy Colorado which lie below the canal are simply there as a matter of incident by reason of the contour of the country, and will only be watered in the event that proper arrangements

could be made with the parties below; in other words, the canal was located and surveyed, and, so far as the work is done, was built for the purposes of these lands.

Cross-Examination.

Mr. CALL.—Q. Are you interested in the Colorado River Irrigation Company as a stockholder?

A. I am not.

Q. Have you been interested as a stockholder at all?

A. I never was.

Q. Who are the stockholders of the company?

A. John C. Beatty, who at the time was a resident of Denver; Mr. Dow, who was a banker of Denver; Mr. Miller, a banker of Denver—not the one that was convicted there a few months ago, but the other Miller; W. H. Beatty of Toronto, Canada; and several people in New York, and especially in Providence, Rhode Island, a large number of stockholders there, I forget their names. Ex-Sargeant Barnes of the Senate was largely interested.

Q. Do you remember who constituted the board of directors of the company at the time this contract was made?

A. John C. Beatty, W. H. Beatty, Frank Miller, John Stanton, I think is his name. He was president of the Metropolitan Bank and vice-president and director in the bank that General James is the president of—the Park National Bank, or some such name.

Q. Where is the principal place of business of the company?

A. The principal place of business is Denver, Colorado.

Q. Does the company keep an office there?

A. It did the last that I knew of; under their by-laws and their articles of incorporation they have a right to open a branch office, an executive office, where the stockholders could meet in special meetings, and where the directors could meet and do business, in New York. There is one in Providence, Rhode Island. The last office I knew of in New York was 9 and 10 Broad street, in what is known as the Corn Exchange Building, I think it is.

Q. What steps were taken by the company to secure a right of way for the canal?

A. By an act of Congress?

Q. An act of Congress authorizing the construction of the canal?

A. Of the canal, and giving them the right of way through the government lands and Indian reservation.

Q. Generally?

A. That is the way I understand it.

Q. When did this company make this survey of the canal?

A. They were some three years at the work.

Q. When did they commence the work?

A. They commenced the work, I think about in 1892, or the early part of 1893. I spoke to Mr. Huntington in New York about giving this contract, I think in May, 1893, and they had commenced the survey a short time previous to that, and after my conversation with Mr. C. P. Huntington he stated that he would grant a contract,

and that the matter should be settled by Mr. Madden—the form of it should be settled by Mr. Madden, Mr. Herrin, and myself; that was afterward done and consummated in the contract which bears date the 8th day of December, 1893.

Q. When was the right of way act passed by Congress? A. I cannot give you that.

Q. Can you state how much of the work was done prior to the date of that contract?

A. Simply a preliminary survey, if I understand it correctly, within the portion of California that lies between the international line and the heading of the canal and east of the mountain range.

Q. What proportion of the land subject to irrigation from the canal as proposed lies in the United States, and what proportion in Mexico?

A. The proportion of lands which are subject to irrigation of the canal completed would be practically as surveyed and as marked on Exhibit "A" to the contract, if you will permit me to refer to that.

Q. Certainly.

A. And I should judge that at least calculation three-fourths of the lands subject to irrigation under that survey lie within the State of California. I will also state that at that time I was attorney-general of the State of California, and when the controversy arose with the Mexican government in reference to bringing the water back into California that the Mexican government refused at first to permit that to be done, according to the information that I obtained.

Q. What year was that?

A. That was in 1892. I then informed this corporation and the land brokers in the northern part of Lower California that if the canal was not permitted to return back into California, to bring the water back into California, that I, as attorney-general of the State, should bring a suit prohibiting them from constructing the canal and taking the water out of the Colorado river and carrying it down into Mexico, as I contended that the waters of the Colorado river lying north of the international line belonged, one-half to California, and one-half to Arizona, and that if they could not take those waters out and bring them back into California I should not permit them to be taken out and carried into Mexico unless they were brought back, and it was upon that opinion that I gave upon that subject that caused the Mexican government to recede from their original proposition. That was in 1892, and up to that time, and up to the time that I talked to Mr. Huntington, nothing but preliminary work in the survey had been done.

Q. What time did you cease work on the canal?

A. The last work that was done was I think about six weeks after this suit was brought. I then advised the corporation that I would not expend any greater sum of money on the canal until this suit was withdrawn, except to do enough work to hold the water right, and I believe that this has been done continuously ever since, according to my information, but that I cannot testify to of my own knowledge; the last work I personally know of being

done on the canal, of my own ocular knowledge, was in February, 1896.

Q. State, if you can, of your own knowledge, how much money was paid out by the Colorado River Irrigation Company on this work prior to the commencement of this suit?

A. According to my information about—that is, on the actual excavation, you mean?

Q. On any work or expenditures connected with the property?

A. $167,000.

Q. Prior to the commencement of this suit?

A. Yes, sir; and there has been some paid—but I have not included that in my estimate; I think it is a fraction over $167,000.

Q. What was that paid for? For what different items?

A. For surveys, preliminary and permanent surveys, the platting, the staking, for purchasing the heading for the canal, securing the title to it, and excavating.

Q. Do you remember how much was paid out for the headworks?

A. They paid out and agreed to pay $15,000; I owned that land myself, and that is what I charged for the heading.

Q. What did they in fact pay prior to the commencement of this suit?

A. They have paid about $3,000, and I have a judgment for the balance.

Q. How much did they pay out for surveys prior to the commencement of the suit?

A. I cannot tell you exactly, for this reason, that I looked over the accounts of the company and I found that the amounts expended in actual labor and work, including the survey, was $167,000 and some odd hundred dollars; that included the $3,000 paid on account of the heading, and the expenses of excavating, and the surveys preliminary and permanent, and I also believe it included $500, or such a matter, paid to me as expenses toward seeing Mr. Huntington, that is my recollection.

Q. You paid nothing down on the contract when you made it?

A. That I cannot say, because when it was actually signed I was not present.

Q. It does not show, I believe.

A. I know that the contract also provided for a right of way for the railroad, that part of the proposition I believe was to be free, as I understood it, to Mr. Huntington; I have forgotten what the contract said about it, if anything.

Q. Who is secretary of the Colorado River Irrigation Company? A. Peter McLean.

Q. Where is his office?

A. His office now at this present time is in Cleveland, Ohio.

Q. Does he keep the books and records of the company there?

A. I don't know whether he keeps them there or at Yuma; he is part of the time at Yuma, and part of the time at Cleveland; the company has an office at Yuma.

Redirect Examination.

Mr. SINGER.—Q. Is there anything else, Mr. Hart? (Same objection.)

A. In the statement I made as to the amount expended, that amount includes what has actually been spent in connection with the canal; it does not refer to salaries of officers or office rent in New York, or anything of that kind, and it represents actually twenty-dollar gold pieces, no commissions or anything else except $500 that was paid toward my expenses in going to see Mr. Huntington.

Mr. SINGER.—Mr. Call, will you agree to waive the signature of Mr. Hart to his deposition?

Mr. CALL.—Yes.

Testimony of CHARLES D. RHODES.

CHARLES D. RHODES, called as a witness on behalf of the defendants, being first duly sworn, testified as follows on January 14th, 1898:

Mr. SINGER.—Q. Where do you reside?

A. At 711 Jones street, San Francisco.

Q. What is your occupation?

A. I am chief draftsman in the United States surveyor-general's office.

Q. Here in San Francisco? A. Yes, sir.

Q. I submitted to you a list of townships through which the line of general route on the map filed by the Atlantic and Pacific Railroad Company in the general landoffice, in September, 1871, seemed to extend, and

asked you to make an examination of your records and ascertain which, if any, of those township plats had been officially approved prior to September 1st, 1871; did you make such an examination? A. Yes, sir.

Q. Will you please state which of the townships you find the official plat of to have been approved prior to September 1st, 1871?

A. Township 15 south, range 15 east, San Bernardino meridian; 15 south, 16 east, 15 south, 17 east; 15 south, 18 east; 15 south, 19 east; 15 south, 21 east; 16 south, 11 east; 16 south, 12 east; 16 south, 13 east; 16 south, 14 east; 16 south, 15 east; 16 south, 16 east; 17 south, 1 west; 17 south, 21 and 22 east; 18 south, 1 and 2 west; 18 south, 1 east.

Q. I also submitted to you a list of townships along the line of definite location and construction of the Southern Pacific branch line railroad through San Gorgonio Pass, and thence in a southwesterly direction to San Diego, and asked you to ascertain which, if any, of those townships the official plat of had been filed prior to the year 1873; did you make such examination?

A. Yes, sir.

Q. Will you please state which, if any, of those townships the official plat was filed on prior to the year 1873?

A. Township 1 south, ranges 3 and 5 west, San Bernardino meridian; township 2 south, 1, 2, and 6 west; township 3 south, 1, 2, and 5 west; township 3 south, 1, 2, 3, 4, and 5, east; township 4 south, 5 and 6 west; township 4 south, 5 and 6 east; township 5 south, 6, 7, and 8 east; township 6 south, 8 and 9 east; township 7

south, 8 and 9 east; township 8 south, 9, 10, and 11 east; township 9 south, 7 west; township 9 south, 11 and 12 east; township 10 south, 12, 13, and 14 east; township 11 south, 4 and 5 west; township 11 south, 14 and 15 east; township 12 south, 16 and 17 east; township 13 south, 17 and 18 east; township 14 south, 18 and 19 east; township 15 south, 19 and 20 east; township 16 south, 20, 21, and 22 east.

Q. In some instances the official plats you have mentioned did not cover the entire township?

A. No, sir.

Mr. CALL.—The testimony of this witness is objected to as irrelevant and immaterial.

Cross-Examination.

Mr. CALL.—Q. You say that some of the townships had only been partially surveyed at the times you mentioned? A. Yes, sir.

Q. Did you personally examine the plats yourself, so that you can state the whole or parts of the townships you have mentioned were surveyed at the time you stated?

A. I personally examined the maps, and I found that some were partially surveyed and some wholly surveyed.

Q. Is it not true, as a matter of fact, that the townships in the mountains were not any of them wholly surveyed in 1873?

A. I could not say whether they were wholly surveyed or not, any of them.

Q. In stating that the townships you have named were surveyed, or that plats were returned, what you meant

then was that there had been some survey lines run in those townships and plats and those survey lines had been returned? A. Yes, sir.

Q. Can you state which of the townships were wholly surveyed and which were surveyed only in part or exterior boundary lines run?

A. I cannot; not without further examination; all these township plats I have referred to have more or less public land in them, exclusive of the private grants; they all have some public land.

Mr. SINGER.—Will you excuse the signature of this witness?

Mr. CALL.—Yes, sir.

San Francisco, January 15th, 1898.

Testimony of WILLIAM HOOD.

WILLIAM HOOD, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Mr. SINGER.—Q. Where do you reside?

A. In San Francisco, California.

Q. What is your profession and occupation?

A. Civil engineer; at present chief engineer of the Southern Pacific Company and leased lines.

Q. Are you a diploma graduate of any institute?

A. Dartmouth College.

Q. How long have you been engaged as a civil engineer in railroad building?

A. Since early in May, 1867.

Q. What railroads have been built under your direction?

A. Partially under my direction and wholly under my direction in various capacities as assistant engineer and instrument man and chief assistant engineer, and chief engineer, the greater share of the railroads of this company, this being quite general; some portions of the system were built with me having so little to do with them that I did not ever see them till after the track was laid, but in general I have done a great deal of work.

Q. It may be said generally, may it not, that you have in those different capacities constructed most of the railroads in California?

A. Yes, sir; had to do with the construction of most of the railroads in California would be correct.

Q. For how many years have you been thus engaged?

A. Almost continuously since May, 1867, with very few breaks.

Q. Was the route of the Southern Pacific Company's branch line road extending from Mojave to Yuma surveyed under your direction?

A. A portion of it—a considerable portion of it.

Q. Are you familiar with the features of the eligibility of the Southern Pacific Company's branch line road for its entire length? A. Quite so.

Q. Are you familiar with the country lying between the western end of San Gorgonio Pass and San Diego?

A. Yes, to a considerable extent. For instance, in the summer of 1877, I think, I explored every pass, or low divide, in the range which lies between the Colorado desert and the Pacific ocean, commencing with Warner's Pass—and I commenced at Warner's Pass because I was

already very familiar with San Gorgonio Pass—and thence to the Mexican boundary; and there is no part of the axis of that range that I have not set foot on, either my foot or my horse's foot.

Q. You are, therefore, in a general way at least, familiar with the eligibility of the railroad route from Yuma to San Diego by way of San Gorgonio Pass, as well as by way of any other routes that exist between San Diego and Yuma?

Mr. CALL.—Question objected to as incompetent, immaterial, and irrelevant.

A. Yes, sir; in a general way.

Mr. SINGER.—Q. Is there, in your opinion, a feasible railroad route from Yuma in a general direct westerly course to San Diego?

(Same objection.)

A. There is.

Q. Were the question to be presented to you now as an original proposition as to the most eligible railroad route from Yuma to San Diego, what would your answer be?

(Same objection.)

A. It would be this: To proceed by a reasonably direct line to a point on the east slopes of the range which lies between the Colorado desert and the Pacific ocean, which foot of grade would be about where the maximum grades would strike if run nearly continuously from the southwestern end of the gorge known as the Carriso canyon; thence with grades of not always continuously maximum ascending rate to the summit of the divide be-

tween the waters which flow through creeks of sundry names into the Carriso canyon and the waters which flow toward the Pacific ocean, these waters flowing toward the Pacific ocean being at that point tributary to the Tia Juana creek; I don't remember at this date the exact names of the sundry small forks of what is really the Carriso creek and the Tia Juana creek; then at the appropriate point striking into the waters tributary to the Otay river, and thence down to the vicinity of the Pacific ocean; thence by suitable and somewhat favorable route to San Diego; this being a very general description of the land.

Q. Several days ago I submitted to you a carbon copy of the deposition of Mr. Charles E. Satterlee, taken in this case on behalf of the United States before William Herbert Smith, as special examiner, in New York, executed on November 17th, 1896, and asked you to examine the reports of surveys given by him. I will now ask you to say, from your examination of Mr. Satterlee's deposition mentioned, which route therein considered is shown to be the most eligible and practicable route for a railroad from Yuma to San Diego, and I will ask you to run out fully the reasons for whatsoever conclusions you have reached.

(Same objection.)

A. In looking over the report offered in evidence by Mr. Joseph H. Call in the deposition of Mr. Satterlee, being from the printed report to Gen. C. M. Dodge, chief engineer Texas and Pacific Railroad by James A. Evans, engineer California Division, dated San Diego, Cal., February 3d, 1873, I have been struck by the estimates of cost

of the various routes, particularly by the prices of various classes of work being placed very much higher than such work costs in my experience, and also by the unusual manner of comparing routes in regard to their curvatures and gradients.

The following estimates of cost of routes are made by taking the quantities of each class of work from the above-mentioned report as being correct, and applying to these quantities such prices as the work could be readily contracted to be done for.

From the following estimates of cost of the two routes with prices for which the work could be done, it is seen that the line A or direct route would cost but $2,373,150.86 more than line D or San Gorgonio Pass route.

The difference of cost shown by report of James A. Evans before referred to is $6,143,854.24, and had still higher prices been used in this report for the quantities of work to be done on the two routes, almost any increased difference of cost could have been shown.

Line A—Direct Route.

Estimate of Cost Section No. 1. From Depot Grounds to Station 908+70, Foot of Grade in Otay Valley.

Distance, 26.8-10 miles.

541,464 cubic yards earth excavation at.....	$	.15	$ 81,219.60
53,000 " " loos rock " "		.35	18,550.00
53,000 " " solid rock " "		.85	45,050.00
1,600 lineal feet timber lined tunnel "		70.00	112,000.00
525 cubic yards rubble masonry "		7.00	3,675.00
995,747 ft. B. M. timber trestle "		23.00	22,902.18
40,284 lineal feet redwood piling "		.24	9,668.16
28,070 lbs. wrought-iron bolts "		.02	651.40
19,746 lbs. cast-iron washers "		.017	335.68
26.8-10 miles 75-lb. steel main line track, tie plated, and with one mile of siding laid with 50-lb. steel for each 4.36 miles of main line track, all in place and ballasted, at.....	$10,600.00		284,080.00
Total, 26.8-10 miles at $21,568.73 per mile.....			$578,042.02

Line A—Direct Route.

Section No. 2. From Station 908+70, Foot of Heavy Grade, to Station 4,300 in the Carriso Canyon.

Distance 81.57 Miles.

2,970,736	cubic yards earth excavation at.....	$ .20	$ 594,147.20
943,320	" " loose rock excavation.....	.375	353,745 00
220,000	" " solid rock "	.70	154,000.00
1,907,903	" " " " "	.90	1,717,112.70
9,255	lineal feet timber lined tunnel.....	60.00	555,300.00
6,156	cu. yards coursed masonry.....	12.80	78,796.80
21,830	" " rubble masonry.....	8.00	174,640.00
600	lin. ft. truss bridging	38.00	22,800.00
1,055,967	ft. B. M. timber trestle.....	23.00	102,287.24
111,892	lbs. wrought-iron bolts.....	.02	2,237.84
154,012	" cast-iron washers.....	.017	2,618.20
81.57	miles 75-lb. steel main line track, tie plated and with one mile of siding laid with 50-lb. steel for each 4.36-100 miles of main line track, all in place and ballasted, at	$10,600.00	864,642.00
	Total, 81.57-100 miles at $57,402.56 per mile.....		$4,682,326.98

Line A—Direct Route.

Section No. 8 from Station 4,300 in Carriso Canyon to Station 5,300 on the Desert.

Distance, 18.94 Miles.

1,339,850	cu. yds.	earth excavation at.....	$ .14	$187,579.00
96,073	"	loose rock excavation at.....	.35	33,625.55
692	"	coursed masonry "	12 00	8,857.60
5,092	"	rubble masonry "	8 00	40,736.00
962,228	ft. B. M.	timber trestle "	23 00	22,131.24
18,106	lbs.	wrought-iron bolts "	.02	362.12
22,722	"	cast-iron washers "	.017	386.27
18.94	miles	75-lb. steel main line track, tie plated and with one mile of siding laid with 50-lb. steel for each 4.36-100 miles of main line track, all in place and ballasted, at.....	$10,600.00	200,764.00
Total, 18.94 miles at $26,105.69 per mile.....				$494,441.78

Line A—Direct Route.

Section No. 4 from Station 5,300 to Colorado River at Fort Yuma.

Distance, 75.8 Miles.

1,094,215 cubic yards earth excavation at	$	.12	$131,305.80
62 " " rubble masonry "		8.00	496.00
415,676 feet, B. M., timber trestle, "		23.00	9,560.55
8,376 lineal feet redwood piling "		.24	2,010.24
10,888 pounds wrought-iron bolts "		.02	217.76
5,098 pounds cast-iron washers "		.017	86.67
78.8 miles 75-lb. steel main line tracks, tie plated and with one mile of siding laid with 50-lb. steel for each 4.36 miles of main line track, all in place and ballasted, at		$10,500.00	$793,900.00
Total, 75.8 miles at $12,395.48 per mile			$939,577.02

Summary of Cost.

Section No. 1	26.8	miles,	$ 578,042.02
" " 2	81.57	"	4,682,326.98
" " 3	18.94	"	494,441.78
" " 4	75.8	"	939,577.02
Total 203.11 miles at $32,959.42 per mile			$6,694,387.80

Total rise East ..... 4,580.8-10 feet.
" " West ..... 4,452.1-10 "
" curvature ..... 17,864 degrees.

Line A—Direct Route.

	Ascending Grade Eastward. Miles.	Descending Grade Eastward. Miles.	Level Grade. Miles.
Level grade			44.39
Level to 20 ft. per mile	35.29	12.39	
20 to 40 feet per mile	14.21	8.23	
40 to 60 " " "	9.67	2.02	
60 to 80 " " "	6.36	13.32	
80 to 105 " " "	16.86	28.64	
116 ft. per mile	11.68		
Totals, 203.11-100 m.	94.07	64.65	44.39

These grades may be segregated into

Level to 60 ft. per mile	126.25	miles.
60 to 110 ft. per mile	76.86	"
Total	203.11	miles.

Line D—San Gorgonio Pass Route.

Estimate of Cost—Section No. 1. From Depot Grounds via the Coast to Head of Temecula Canyon.

Distance 67.08 Miles.

1,812,195 cubic yards earth excavation at.....	$	.20	$362,439.00
165,689 " " solid rock " "		.90	149,120.10
677 lineal feet timber lined tunnel at		60.00	40,620.00
2,900 cubic yards coursed masonry "		12.80	37,120.00
2,932 " " rubble masonry "		8.00	23,456.00
15,000 " " riprap "		1.25	18,750.00
2,250 lineal feet truss bridging "		38.00	85,500.00
77,714 lineal feet redwood piling "		.24	18,651.36
2,356,908 ft. B. M. timber trestle "		23.00	54,208.88
74,749 lbs. wrought-iron bolts "		.02	1,494.98
46,434 lbs. cast-iron washers "		.017	789.38
67.8-100 miles 75-lb. steel main line track, tie plated, with one mile of siding laid with 50-lb. steel for every 4.36 miles of main line track, all in place, ballasted, at.....		10,600.00	711,048.00
Total, 67.08 miles at $22,409.03 per mile.....			$1,503,197.70

Line D—San Gorgonio Pass Route.

Section No. 2. Head of Temecula Canyon to San Gorgonio Pass.

Distance 39.98 Miles.

839,381 cubic yards earth excavation at.....	$	.20	$167,875.20
95,968 " " loose rock " "		.35	33,588.80
191,939 " " solid rock " "		.70	134,357.30
542 lineal feet timber lined tunnel at.....		60.00	32,520.00
2,724 cubic yards coursed masonry at.....		12.80	34,867.20
2,574 " " rubble masonry "		8.00	20,592.00
350 lineal feet truss bridges "		38.00	13,300.00
1,204,000 ft. B. M. timber trestle "		23.00	27,692.00
24,623 lbs. wrought-iron bolts "		.02	492.46
17,660 lbs. cast-iron washers "		.017	300.22
39.98 miles 75-lb. steel main line track, tie plated, with one mile of siding laid with 50-lb. steel for every 4.36 miles of main line track, all in place and ballasted, at.....		10,600.00	423,788.00
Total, 39.98 miles at $22,245.48 per mile.....			$889,374.18

Line D—San Gorgonio Pass Route.

Section No. 3—San Gorgonio Pass to Fort Yuma.

Distance 163.28 miles.

880,598 cubic yards earth excavation at.....	$	.15	$ 132,089.70
51,000 " " loose rock " "		.35	17,850.00
21,000 " " solid rock " "		.90	18,900.00
1,320 " " rubble masonry "		8.00	10,560.00
4,800 " " riprap "		1.25	6,000.00
53,650 lineal feet redwood piling "		.24	12,876.00
668,078 ft. B. M. timber trestle "		23.00	15,365.79
20,810 lbs. wrought-iron bolts "		.02	416.20
9,845 lbs. cast-iron washers "		.017	167.37
163.28 miles 75-lb. steel main line track, tie plated, with one mile of siding laid with 50-lb. steel for every 4.36 miles of main line track, all in place, ballasted, at.....		$10,500.00	1,714,440.00
Total, 163.28 miles at $11,812.01 per mile.....			$1,928,665.06

Summary of Cost.

Section No. 1.....	67.08 miles.....	$1,503,197.70
" No. 2.....	39.98 "	889,374.18
" No. 3.....	163.28 "	1,928,665.06
Total.....	270.34 miles at $15,984.45 per mile,	$4,321,236.94
Total rise east.....		4,138.7 feet.
" " west.....		3,995.9 feet.
Total curvature.....		6,354 degrees.

Line D—San Gorgonio Pass Route.

	Ascending Grades Eastward Miles.	Descending Grades Eastward Miles.	Level Grade Miles.
Level grade			41.02
Level to 20 feet per mile	63.26	43.65	
20 to 40 feet per mile	32.27	20.30	
40 to 60 feet per mile	10.20	13.85	
60 to 80 feet per mile	7.73	9.62	
80 to 105 " " "	13.79	14.65	
Total, 270.34 miles	127.25	102.07	41.02

These grades may be segregated into

Level to 60 feet per mile	224.55	miles.
60 to 105 feet per mile	45.79	"
Total	270.34	miles.

(1931)

Comparison of Line A, Direct Route, and Line D, San Gorgonio Pass route.

	Line A.	Line D.	Differences in favor of Line A.	Differences in favor of Line D.
Distance, miles	203.11	270.34	67.23	
Average rise east and west in feet,	4516.5	4067.3		449.2
Grades level to 60 ft. per mile—miles,	126.25	224.55	98.30	
Grades 60 feet to 116 ft. per miles—miles	76.86	45.79		31.07
Curvature, degrees	17864.	6354.		11510.
Cost per mile	$32,959.42	$15,984.45		$16,974.97
Total cost	$6,694,387.80	$4,321,236.94	$2,373,150.86	

For comparing the direct route and the San Gorgonio Pass route there is no certain method, it being dependent largely on the volume and character of the traffic.

A common rule of thumb method is to assume a degree of curvature as equivalent in its effect on cost of operating to four feet of length of road, and to consider a foot of rise of grade as equivalent in its effect on cost of operating to 44 feet of length of level road for grades of less than 60 feet per mile and as equivalent to 60 feet of length of level road for grades from 60 to 116 feet per mile.

On this basis the line A or direct route is affected as follows, assuming all the difference in rise and fall between the two routes to be made up of grades steeper than 60 feet per mile.

Line A, direct route, actual length.....	203.11 miles
Difference in grade rise and fall 449.2-10 feet at 60 feet horizontal per foot vertical is 26,952 feet or.....	5.15 miles
Difference in curvature is 11,510 degrees, at 4 feet horizontal per degree is 46,040 feet, or.....	8.72 miles
Making total length of line A or direct route, as compared with line D or San Gorgonio Pass route, as to cost of operating	
	216,98 miles

The length of line D or San Gorgonio Pass route is 270.34-100 miles. Hence, line A or direct route is in

effect as to cost of operating 53.36-100 miles shorter than line D or San Gorgonio Pass route.

This method of comparing the routes is quite approximate, but is much more nearly correct than the method of comparing routes by reducing their gradients and curvatures to equivalent level and straight distance on the basis of the expenditure of power required to haul trainson level versus ascending grades of sundry rates per mile, especially when such comparisons are based on the power of small and light locomotives, as the method not only ignores the fact that the cost of increasing power required for grades does not increase as fast as the increased expenditure of power, but also ignores the fact that the small locomotives are not appropriate and economical for use on steep grades. The method also assumes that all the cost of operating a railroad is proportional to the expenditure of power, when in fact a very large part of the cost of operations of a railroad is entirely independent of the expenditure of motive power per mile, be it more or less on sundry gradients.

The probable method of operation for either the direct route or the San Gorgonio Pass route would be to adjust the trainloads to what a suitable engine would haul on all grades of about 60 feet per mile or less, which grades exist here and there on both sides of the main summits of both routes, and for the intermediate or mountain gradient portion of each route haul the same trains by attaching a helping engine of suitable power. The additional cost of operating the mountain gradients and curvatures would then be the increased cost of the helping engine, and the cost of operating the increased curva-

tures on the mountain grades would be the cost of the increased wear on two engines, and on all the cars and on the track.

For this comparison it is necessary to determine, on each route, between what points such helping engines would be used, which would be determined by the most western and most eastern steep gradient rather than by the actual length of the successive portions of steep gradient added together, as the helping engines would be so used, regardless of portions of light or level gradient occurring between the portions of steep gradients.

For line A or the direct route it will be safe to assume the use of a helping engine on section No. 2 and No. 3, a distance of about 100 miles.

For line D or San Gorgonio Pass route the helping engines will have to be used from Santa Margarita valley, which is 57 miles from San Diego, to the head of the Colorado desert in Cabazon valley, which is 141.34 miles from Yuma.

Hence on line D it will be proper to assume the use of a helping engine for about 72 miles.

It is entirely improper to compare routes of this character reduced to straight and level distance, as they will never be operated on such a basis, the level portions being always interspersed with stretches of gradient from 50 to 60 feet per mile out of the mountains, which controls the adjustment of tonnage in trains.

For purposes of comparison, an average freight train with one locomotive may be assumed to be eighteen (18) cars on the grades of less than 60 feet to the mile, and all items of cost of operation can be omitted that are not

affected by length of road and distance on which a helping engine is required and the effect on operating cost of the curvature.

Considering one freight train on line A or direct route:

One locomotive, 203.11 miles at 30.74 cents.....	$62.44
One helping locomotive, 100 miles at 30.74 cents	30.74
18 cars at $.756 cents per mile, 13.608 cents for 203.11 miles	27.64
11,510 degrees extra curvature at $0.000828 per degree (train and two engines).....	9.53
449.2-10 feet extra average grade at $0.0005644 per foot, extra wear of track and train (with two engines) only...	0.25
Total relative cost one freight train, line A, direct route.....	$130.60

Considering one freight train on line D or San Gorgonio Pass route:

One locomotive, 270.34 miles at 30.74 cents.....	$83.10
One helping locomotive, 72 miles at 30.74 cents..	22.13
18 cars at .756 cts. per mile, 13.608 cts. for 270.34 miles.....	36.79
Track maintenance 67.23 extra miles at .35 cents	23.53
Extra wages on conductor and brakemen 67.23 miles, 67.23—135.17 of $9.00.....	4.48
Total relative cost one freight train, line D, San Gorgonio Pass route.....	$170.03

From the above it is seen that one freight train over the San Gorgonio Pass route will cost $39.43 more than over the direct route. Hence, it is evident that any

method of comparison of routes that is at all correct must show the line A or direct route to be not only shorter in actual distance, but in effect shorter judged by economy of operation.

If there were five trains daily each way between San Diego and Yuma, or ten trains daily over the road, the daily cost of train service would be $394.30 less by the direct route than via San Gorgonio Pass, or $143,919.50 per year. That is, with interest at five per cent a company could afford to expend $2,878,390.00 more in constructing the direct route than the San Gorgonio route, and the actual excess of cost is estimated to be but $2,373,150.86. If the traffic should ever amount to 10 trains each way daily, or 20 trains daily over the road, on the same basis a company could afford to expend $5,756,780.00 more in constructing the direct route than in constructing the San Gorgonio Pass route. And as the traffic at first would doubtless have been equal to five trains each way daily with probable increase from year to year, the reasons for adopting the A line or direct route would be very strong.

Q. Your conclusion from the report contained in the deposition, then, briefly stated, is that they show the Otay creek or direct line to be the shortest and most eligible route for a railroad from Yuma to San Diego?

(Same objection.)

A. Yes, sir; it does show it by all means.

Q. I will show you a map, certified on April 26, 1897, by Binger Hermann to be a true copy of the official map of California published by the department of the interior

for the year 1879, and ask you whether or not the Otay creek route referred to in the Satterlee deposition as "route A" is not substantially the route marked "Texas Pacific R. R." on that map. (Map shown witness.)

(Same objection.)

A. That would be substantially the route described as well as it could be delineated on a map of that scale and on a map of those imperfections.

Mr. SINGER.—I will introduce so much of that map as lies south of the third standard north San Bernardino meridian, together with the certificate on the map, and ask that it may be marked "Defendants' Exhibit No. 77."

Mr. CALL.—No objection to the offer of the map.

(Map labeled "Department of the Interior, General Landoffice, J. A. Williamson, Commissioner, State of California, 1879, compiled from the official records of the general landoffice and other sources by C. Roeser, principal draughtsman G. L. O.," together with the certificate of Binger Hermann, commissioner of the general landoffice, dated April 26th, 1897, attached thereto, and bearing the seal of the United States general landoffice, is marked "Defendants' Exhibit No. 77," and is annexed hereto.)

Cross-Examination.

Mr. CALL.—Q. Among the leased lines of the Southern Pacific Company is the Southern Pacific Railroad Company, is it not? A. Yes.

Q. And you are chief engineer of the Southern Pacific Railroad Company? A. Exactly.

Q. About how long have you been such chief engineer, or in the employ of the Southern Pacific Railroad Company?

A. I first became chief engineer of the Southern Pacific Railroad Company at the same time that I became chief engineer of the Southern Pacific Company; that gave ex officio the chief engineership of all leased lines—all lines leased and operated by the Southern Pacific Company. Before that I was chief engineer of the Central Pacific Railroad Company for a short time. Previous to that I was chief assistant engineer and assistant engineer at sundry times of both companies.

Q. The Central Pacific Railroad Company is also one of the leased lines of the Southern Pacific Company?

A. Yes, sir.

Q. Did you ever make a survey of the line of route which you have generally designated as the direct line, on or about line A shown on the map referred to between San Diego and Fort Yuma?

A. I never did; in the course of my general examinations of the country around Yuma I have been over what would be the route of that road from Yuma perhaps fifteen miles west, more or less, which would carry me to the open plain.

Q. West of what?

A. West of Yuma; which would carry me to the open plain which extends without any obstructions to the foot of the mountains between the desert and the Pacific ocean; and in 1877, the time I have spoken before of, I went over on the ground the line as then recently sur-

veyed for and reported back for the Texas and Pacific Railroad from the summit of the divide of the range before mentioned down through the various valleys and tributary streams of the Carriso to the Carriso canyon; I did not walk through the Carriso canyon; I then went to the summit again, and examined the general line of route and surveys for some miles to the westward of the summit, and between that point and San Diego I saw what of the country I could from the traveled stage road, which was nowhere any very great distance from the reported line of survey of the Texas Pacific. The reason that I could readily follow exactly the line of survey which was reported to have been recently made by the Texas Pacific was that the survey was recently made, and the stakes were new, and the bush cutting was new, could readily be found, and I examined it particularly and carefully, because it was the reported new and more favorable method of getting over that summit, which I understood the Texas Pacific had claimed in Congress a short time before to have discovered, which route they claimed made the direct route the most eligible route and the proper one to be considered in case the Texas Pacific should receive the subsidy and land grant which they were endeavoring to obtain.

Q. Do you say that of your own knowledge?

A. It is all from report, as I think I have stated. I qualify by saying that the survey was reported to have been made by the Texas Pacific.

Q. Have you been personally over the line from the summit to the point fifteen miles west of the Colorado river which you mentioned?

A. No, I have not, excepting, as I stated, from the summit to the head of the Carriso gorge, and not at all over the ground between that point and about fifteen miles west of Yuma.

Q. Have you ever made a survey of that part known as line D of the Texas Pacific line between the summit of San Gorgonio and San Diego?

A. I never have made an instrumental survey; I have simply been over portions of the route.

Q. In making your computation of cost and construction and operation of the San Gorgonio route as against the Carriso canyon route, did or did you not use, as a basis of computation of cost, the same figures that were given by the company in the report of General Dodge in the Satterlee deposition?

A. I used exactly the same figures as to quantities of earth work, timber work, piling and iron, and in every respect the same figures, excepting in tunneling; the tunneling I took in lineal feet, at so much a lineal foot, and I assumed that the tunnels would all require redwood timber lining, which Gen. Dodge's report did not assume, and I obtained the lineal feet of the tunneling on the direct or Carriso route by the lineal feet given in the report, as I found this corresponded about to the proper yardage of tunneling; on the San Gorgonio route, as there was no statement of the lengths of the individual tunnels in feet I deduced the lengths by the reverse process, calling for 12 cubic yards to a lineal foot, according to their estimates, and taking the corresponding number of lineal feet which in that case I assumed to require

timber lining, as I have never yet seen a tunnel in Southern California, or along the coast of California, no matter how favorably it looked on the outside, that did not require timber lining, with the one exception, I think, of a tunnel in sandstone near Port Costa.

Q. There is a greater number of timbered feet of tunneling on the Carriso line than on the San Gorgonio line?

A. Yes.

Q. Considerably more?

A. Considerably more; I could not say exactly how much without adding up my own figures.

Q. Is there any other element of difference in basis of computation?

A. Nothing at all, excepting that the prices which I applied to a cubic yard of earth work, rock work, or a thousand feet of timber in place, or other items of cost, are very different from those applied by Gen. Dodge, and very much less, and very close to what our work is costing us now in similar localities, and, if anything, a little less than we are paying.

Q. Then in estimating the cost of that work you used as a basis the present cost of work paid by your company?

A. Yes, sir; paid by my company, work done under my direction by contract.

Q. You did not use, then, as a basis of computation, an amount per mile based upon the contract price of the whole road, for instance, such contracts as made by the Southern Pacific Railroad Company to construction companies for construction of road?

A. No, sir; I used the contract prices that we custom-

arily pay at present to contractors who execute the work on the ground.

Mr. SINGER.—Will you excuse the signature of Mr. Hood to his deposition?

Mr. CALL.—Yes.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.	Consolidated Nos. 675, 587 and 662.

Certificate of Special Examiner.

I certify the foregoing testimony was taken pursuant to an order of Court made on the 12th day of January, A. D. 1898, at the office of William Singer, Jr., rooms 61-2, Union Trust Building, in the city and county of San Francisco, and State of California, at the several times set forth in the foregoing record, in my presence, and in the presence of counsel for the respective parties to the above-entitled cause; that previous to giving his testimony each of the witnesses in said record named was by me duly sworn to tell the truth, the whole truth, and

nothing but the truth in said cause; that said testimony was fully, truly, and correctly taken in shorthand and transcribed by me; that the said testimony, after being so transcribed, was read by the said witnesses, and signed by them, respectively, except in those cases where such reading and signing were, by agreement of said counsel, waived, as in said record set forth; and that I have retained said testimony for the purpose of delivering the same with my own hand to the court for which it was taken.

During the taking of said testimony there were introduced in evidence certain exhibits, numbered, respectively, Defendants' Exhibits 44 to 77, both inclusive, and which form part of said testimony. Of said exhibits, numbers 44, 46, 47, 48, 49, 50, 51, 52, 53, 54, 60, 76 and 77 accompany this record, or certified copies of same, were stipulated by counsel, as set forth in said record. Defendants' Exhibits Nos. 45, 55, 56, 57, 58, 59, were, by stipulation of counsel, as shown in the foregoing record, introduced by reference, and were not produced before the examiner. By stipulation of counsel, as set forth in said record, Defendants' Exhibit No. 76 was substituted in lieu of Defendants' Exhibits Nos. 61 to 75, both inclusive, and said last-named exhibits, after being marked with their respective exhibit numbers, were returned to said defendants.

I further certify that I am not attorney nor of counsel for any of the parties to said cause, nor in any way interested in the event thereof.

In witness whereof, I have hereunto set my hand this 31st day of January, A. D. 1898.

STEPHEN POTTER,
Special Examiner.

Defendants' Exhibit No. 44.

Contract No. ———.

Issued ..... to ..... For .....
....
Acres. Agreed Pur. Price, $..... Purchase price Paid, $..... Int. Paid, ... Deed issued ..... to ..... Present Owner of Contract, ... Patent No. ..... Issued ....., for ..... acres of land described above.

Contract No. .....

Issued ..... to ..... For .....
....
Acres. Agreed Pur. Price, $..... Purchase price Paid, $..... Int. Paid, ... Deed issued ..... to ..... Present Owner of Contract, ... Patent No. ..... Issued ....., for ..... acres of land described above.

Contract No. .....

Issued ..... to ..... For .....
....
Acres. Agreed Pur. Price, $..... Purchase price Paid, $..... Int. Paid, ... Deed issued .....

to ..... Present Owner of Contract, ... Patent No. ..... Issued ....., for ..... acres of land described above.

[Endorsed]: U. S. v. S. P. Consd. 675, 587 and 662. Defendant's Exhibit 44. Stephen Potter, Special Examiner.

Defendants' Exhibit No. 46,

Contract No. 11,322.

This agreement made and entered into in duplicate this 8th day of December, 1893, between the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the United States and of the State of California, party of the first part, and the Colorado River Irrigation Company, a corporation duly organized and existing under the laws of the State of Colorado, party of the second part, witnesseth as follows:

First.—The party of the first part agrees to sell and convey to the party of the second part, for the price of two dollars and fifty cents ($2.50) per acre, in U. S. gold coin, on the terms hereinafter specified, its unimproved odd-numbered sections of land situate in Riverside and San Diego counties, in the State of California, in the territory lying between the following boundaries, viz: on the south, the international line separating California from Mexico; on the north, the railroad station at Indio, in Riverside county, California; on the east and west, the east and west branches of the canals of said Colorado River Irrigation Company as finally surveyed and located by the said party of the second part, and generally desig-

nated upon the annexed map marked "A," and made a part hereof; and for the purpose of obtaining a more particular description of the said east and west boundaries, the said party of the second part hereby agrees that it will, on or before July 1st, 1895, finally survey and locate upon the ground the said eastern and western branches of its canals above mentioned, and will furnish to the party of the first part a plat or map of such survey and location within said time; and immediately thereupon the parties hereto will execute a supplemental agreement with map or plat attached, particularly defining and designating the said eastern and western boundaries of the land above mentioned and herein agreed to be sold and conveyed.

Second.—The party of the second part agrees to buy from the party of the first part the lands mentioned above in the first article of this agreement, and to pay therefor two dollars and fifty cents ($2.50) per acre, at the times and with the interest as hereinafter stated.

Third.—It is agreed by and between the parties hereto, and the understanding is, that there is expressly excepted and withheld from this contract all rights of way now used or that may be hereafter required by the party of the first part for the main line, branches, side tracks, and switches of its railroads; also all lands that are or may hereafter be required for railroad yards, or terminals, or depots, shops, warehouses, hotels, station buildings, and for all uses incidental or convenient to the operating of its railroads or the development of its railroad business; also all parcels of land in said odd-numbered sections

heretofore conveyed or contracted to be conveyed by the party of the first part, but no deduction from the acreage of lands to be paid for hereunder shall be made for a right of way one hundred (100) feet in width as above reserved.

It is also agreed that the party of the first part shall have the sole right to decide what lands shall be withheld from sale under this contract for any purpose or reason in this article mentioned; provided only that said party of the first part shall exercise its right so to withhold any piece or parcel of land not later than thirty (30) days after the party of the second part shall have asked a conveyance and offered payment therefor.

Fourth.—Payment for the lands hereby agreed to be sold shall be made to the party of the first part at its landoffice in the city and county of San Francisco, California, as follows:

As to all lands for which United States patents shall have been issued within ten years from the date hereof, the full price therefor shall be paid on or before the expiration of said ten years.

As to all lands for which United States patents shall be issued after ten years from the date hereof, full payment therefor shall be made within ninety (90) days after written notice of the issuing of the patents therefor given by the party of the first part to the party of the second part.

All purchase money for said lands not paid on or before the first day of June, 1896, shall thereafter bear interest until paid at the rate of six (6) per cent per annum, paya-

ble annually on the first day of June in each year thereafter; provided, however, that as to all lands lying south of the third parallel south, designated on said map "A," hereto attached, and covered by the alleged maps of location of the line of the Texas Pacific Railroad Company, sometimes called the Texas & Pacific Railroad Company, payment of interest may be deferred until the alleged title, or cloud upon title based upon said maps of location has been quieted or removed. In all cases where the payment of interest is deferred, as above provided, such interest shall be compounded annually at six per cent (6%) per annum, commencing with the interest day of June 1st, 1897.

It is hereby agreed that, if the United States patents to the party of the first part shall not have been issued within ten (10) years from the date hereof for any of said lands lying south of the third parallel south, above described, and the party of the second part shall be enabled to secure said patents by reason of this contract, or if it should secure title by reason of any legislation applying to lands sold by railroad companies under the acts of Congress now existing, or that may be passed hereafter in relation thereto; then, and in that event, the party of the second part may deduct from the purchase price for said lands last above described, the amount by it paid to the general Government for any of said lands, not exceeding one and twenty-five hundredths dollars ($1.25) per acre; provided, however, that if the party of the second part shall obtain title to said lands in bulk by legislation existing, or that may hereafter be passed, then, and

in that event, the party of the second part shall pay to the party of the first part the sum of one and twenty-five hundredths dollars ($1.25) per acre, irrespective of the amount paid to the general Government.

It is understood and agreed that the party of the first part will obtain United States patents to all of said lands as soon as practicable, and to the best of its ability.

Fifth.—It is is understood and agreed that the purpose of this contract is to bring said lands into market and under cultivation in small holdings, and with irrigating rights; and to effect said purpose, it is agreed that the said party of the second part shall not hold any of said lands at a higher price than fifty dollars ($50.00) per acre, except that lands within two (2) miles from the center of any townsite laid out by the party of the second part may be held at higher prices; provided, that no two of such townsites shall be laid nearer than twelve (12) miles from each other, measuring from the center of each townsite. And said party of the second part agrees to put said lands on the market as soon as practicable after its canals and irrigating ditches shall been constructed, so as to supply water for said lands and as such construction progresses.

Sixth.—Whenever full payment, principal and interest, is made as hereinbefore provided for any of the legal subdivisions of said lands, as designated by the Government maps, herein contracted to be sold, the party of the first part, after receipt of United States patents therefor, will thereupon convey the lands so paid for in full to the party of the second part by deed of grant, bargain, and sale,

reserving all claim of the United States to the same as mineral land, and also the right (which is hereby granted by the party of the second part to the party of the first part) to use all water from any of the ditches, reservoirs, or wells upon said lands necessary or convenient for the operation or repair of said railroads, and upon condition that the party of the second part, its successors and assigns, shall at all times build and maintain good and sufficient fences on both sides of the right of way of said railroads now constructed, or which may be hereafter constructed through the said lands.

The party of the second part may make full payment as above provided for any of said lands by legal subdivisions as designated by the Government maps, at any time before the issuing of United States patents therefor to the party of the first part, in which case the party of the first part shall execute contracts for deeds for such lands, which the party of the second part may assign to purchasers; provided, that in such cases the party of the second part will not, and it hereby covenants and agrees not to, sell the land covered by said contracts for less than twelve and fifty-hundredths dollars ($12.50) per acre.

Seventh.—From time to time as parcels of the lands in this contract described are sold or disposed of by the party of the second part, it will pay, and hereby agrees to pay, to the party of the first part one-fourth of the excess received by it for said lands, over and above the price paid therefor by it to the party of the first part as hereinbefore provided, such excess payments to be made and

applied upon account of the purchase price above provided for said lands, and to be continued until the principal and interest of such purchase price are fully paid. Within thirty (30) days after the receipt of any of said excess payments by the party of the first part, it shall have the right to apply such payments to the purchase of any specific legal subdivision of said lands for which it then holds a United States patent, and shall give the party of the second part written notice of such application as soon as the same is made as aforesaid.

Eighth.—In consideration of the making of this agreement, it is hereby agreed by the said party of the second part that it will pay or cause to be paid, promptly when due, all taxes and assessments of every kind and nature that may be levied for the year 1894, and thereafter, upon said lands described in this agreement, and if the party of the second part shall fail, neglect, or omit to pay said taxes and assessments, or any part thereof, when and as they become due and payable, then the party of the first part may pay the same or buy in the land at tax sale, and the sum so paid, with the amounts of legal penalties for delinquency, shall be added to, and become part of, the unpaid remainder of purchase money for said land, and shall bear interest at the same rate, and shall be paid on demand at the place hereinbefore provided for the payment of purchase money and interest thereon.

Ninth.—The said party of the second part further agrees that it will pay the expenses of making, executing, and recording all deeds, contracts, assignments, and mortgages that may be necessary to be executed either by

or to the said party of the first part to convey said land, not exceeding two dollars and fifty cents ($2.50) for drawing each document so executed, and in addition thereto the legal fees for acknowledging and recording the same.

Tenth.—It is further agreed by and between the parties hereto, inasmuch as the canal of the said party of the second part will pass over and across the tract of land known as the "Yuma Indian Reservation," that in the event that said "Yuma Indian Reservation," or any part thereof, shall be thrown open for settlement, and if in such case the party of the first part shall be entitled to claim and hold any part of the land now included in said reservation, then this contract of purchase is intended to and shall include each and all odd-numbered sections belonging to said party of the first part through which the canal of said party of the second part shall pass, and also all such odd-numbered sections as it shall obtain within the limits of said Indian reservation lying at a lower grade than said canal, and capable of being irrigated therefrom.

Eleventh.—The party of the second part shall prosecute work on its canals with due diligence, and shall not suspend work on them for a longer period than four (4) months in any one year, and shall distribute water for irrigation upon the lands herein mentioned before it makes any general distribution of water from its canals in Lower California, south of the northern boundary of Mexico.

Twelfth.—From and after the execution of this contract, the party of the second part shall have the right

to enter on said lands for the purpose of constructing its canals and ditches, and to occupy the right of way necessary therefor, and also to use said lands for pasturage, paying to the said party of the first part on account of the sums due under this contract all moneys earned and received from said pasturage.

Thirteenth.—It is further agreed and understood by and between the parties hereto that possession of the lands herein mentioned is given to the party of the second part at the time of signing this contract, but said possession, and all rights of the party of the second part under this instrument, are dependent upon strict compliance with the fulfillment of all of its terms by said party of the second part; and it is further agreed that until the full payment of purchase money and interest, taxes, and assessments, no strip or waste shall be made on said premises without the previous written consent of the party of the first part.

Fourteenth.—It is further agreed and understood that time is of the essence of this contract, and that if the party of the second part shall fail to make punctually any of said payments of interest or purchase money, or shall fail to comply strictly with any of the stipulations of this contract, and shall remain in default for ninety (90) days from and after receipt of written notice from the party of the first part of the amounts due, then from and after the expiration of the said period of ninety (90) days, this contract shall be ended, and all the rights of the said party of the second part therein terminated, and the party of the second part forever foreclosed of any

rights of purchase or title or interest therein or thereunder; and the said party of the first part shall retain and keep unto itself all the moneys paid to it by said party of the second part, as payment in full for the use, occupation, possession, and the privilege of using, occupying, and possessing said lands and premises, from the date of entering into this contract of purchase, and until the termination thereof as aforesaid, and said party of the first part, its successors or assigns, may, without notice, enter upon, take and hold possession of the said premises with all the improvements thereon.

Fifteenth.—Should the lands mentioned in this agreement, or any of them, remain with or revert to the party of the first part after the party of the second part shall have constructed any of its proposed canals or ditches, the party of the second part will sell to the party of the first or any of its vendees, at the time when they shall elect to buy, water rights from said ditches for the irrigation of such of said lands as may be accessible therefrom, at prices not exceeding those charged to other persons, said water rights to be for water of sufficient quantity to insure the thorough irrigation of such lands.

Sixteenth.—It is further agreed that this contract shall not be assignable except by endorsement, and with the written consent of the party of the first part, and the written promise of the assignee to perform all the undertakings and promises of the said party of the second part as hereinbefore set forth.

Seventeenth.—The party of the second part hereby agrees to have this contract approved, confirmed, and

ratified by its stockholders by resolution duly passed at the next annual meeting of said stockholders, to be held in the month of July, 1894, and will, within one month thereafter, furnish to the party of the first part a duly certified copy of such resolution.

In witness whereof, the said party of the first part has caused these presents to be signed in duplicate by its secretary and its land agent, and sealed with its corporate seal; and the said party of the second part likewise in duplicate has caused its name to be signed by its president and secretary, and sealed with its corporate seal, being thereunto duly authorized by resolution of its board of directors.

NOTE.—In 14th article hereof, in 8th line from bottom of page 8, after the word "and," the words "after the" were interlined before signing.

[Seal of Southern Pacific Railroad Company.]

J. L. WILLCUTT,
Secretary So. Pac. R. R. Co.
JEROME MADDEN,
Land Agent So. Pac. R. R. Co.

C. H. DOW,
President Colo. Riv. Irr. Co.

[Seal of The Colorado River Irrigation Company.

P. J. McLEAN,
Secretary Colo. Riv. Irr. Co.

[Endorsed]: No. 11,322. Contract for a deed. Southern Pacific Railroad Company to the Colorado River Irrigation Company. Dated December 8th, 1893. 66 Broad St., New York.

(A map is attached entitled "Map of the Colorado Desert, Sonora Mesa, and Delta of the Rio Colorado, 1893. Copyright by the Colorado River Irrigation Company," marked "A.")

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.	Consolidated Nos. 675, 587 and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original contract for a deed between the Southern Pacific Railroad Company and the Colorado River Irrigation Company, numbered 11,322, dated December 3d, 1893, and marked "Defendants' Exhibit No. 46" in this cause, and find it to be a full, true, and correct copy of said original.

San Francisco, January 18th, 1898.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: U. S. vs. S. P. Consd. 675, 587 and 662. Copy of Defendants' Exhibit No. 46.

Defendants' Exhibit No. 47.

G. 30. (10-17-90—2,000.)

Southern Pacific Railroad Company.

No. ..... Land Department.

This agreement, made at San Francisco, California, this ..... day of ....., A. D. 189.., between the Southern Pacific Railroad Company, party of the first part, and ....., of the county of ....., State of California, part.. of the second part, witnesseth:

That the party of the first part, in consideration of the covenants and agreements of the part.. of the second part hereinafter contained, agrees to sell to the part.. of the second part, the following tract..of land, situated in the county of ....., State of California, and known and designated on the public surveys of the United States as .... of section ....., township ....., range ....., ..., base and meridian, containing .....-100 acres, for the sum of .....-100 dollars, gold coin of the United States.

And the part.. of the second part, in consideration of the premises, agree.. to buy the land hereinbefore described, and to pay to the party of the first part, the said sum of.....-100 dollars, as follows, to wit: .....-100 dollars, and also $....., one year's interest in advance on the remainder, in United States gold coin of the present standard of value, on the execution of this contract

(which two last-mentioned sums have this day been fully paid), and the remainder, to wit, the sum of ..... -100 dollars, with interest thereon, annually in advance, at the rate of seven per cent per annum, both in United States gold coin, of the present standard of value, at its office in the city and county of San Francisco, on or before the ..... day of ....., 189.., and, also, to pay all taxes and assessments that may at any time be levied or imposed upon said premises, or any part thereof; and if the part.. of the second part shall fail to pay such taxes or assessments, or any part thereof, at any time when the same shall become due, then the said party of the first part may pay the same; and all sums so paid by the party of the first part shall be added to and become part of the unpaid remainder, and shall bear interest at the same rate, and be paid in the same manner and at the same time and place hereinbefore provided for the payment of said remainder and the interest thereon.

It is further agreed that upon the punctual payment of said purchase money, interest, taxes, and assessments, and the strict and faithful performance by the part.. of the second part ....., legal representatives or assigns, of all the agreements herein contained, the party of the first part will, after the receipt of a patent therefor from the United States, upon demand and the surrender of this instrument, execute and deliver to the part.. of the second part, ... heirs and assigns, a grant, bargain, and sale deed of said premises, reserving all claim of the United States to the same as mineral land, and also reserving therein to the party of the first part, for railroad pur-

poses, a strip of land one hundred feet wide, lying equally on each side of the track of the railroad of said company, and all branch railroads now or hereafter constructed thereon, and the right to use all water needed for the operating and repair of said railroads ....., and with the condition that the part.. of the second part, ... heirs and assigns, shall erect and forever maintain good and sufficient fences on both sides of said strip or strips of land.

It is further agreed that until the full payment of said purchase money, interest, taxes, and assessments, no strip or waste shall be made on said premises, and that no wood or growing trees shall be cut thereon, except for necessary fuel for the family of the legal occupant under this contract, and for the erection of buildings or fences on said land, without the previous written consent of the party of the first part.

It is further agreed that the part.. of the second part may at once enter upon, take, and hold possession of said premises; provided, however, that if the part.. of the second part shall fail to make any of said payments of remainder, or interest, taxes, or assessments as herein provided, or shall fail to comply strictly with any of the stipulations of this contract, then this right shall cease, and the party of the first part, its successors or assigns, may without notice enter upon, take, and hold possession of the said premises with all the improvements thereon.

It is further agreed between the parties hereto that the party of the first part claims all the tracts hereinbefore described, as part of a grant of lands to it by the Congress

of the United States; that patent has not yet issued to it for said tracts; that it will use ordinary diligence to procure patents for them; that, as in consequence of circumstances beyond its control, it sometimes fails to obtain patent for lands that seem to be legally a portion of its said grant, therefore, nothing in this instrument shall be considered a guarantee or assurance that patent or title will be procured; that in case it be finally determined that patent shall not issue to said party of the first part for all or any of the tracts herein described, it will, upon demand, repay (without interest) to the part.. of the second part, all moneys that may have been paid to it by ..... on account of any such tracts, as it shall fail to procure patent for, the amount of repayment to be calculated at the rate and price per acre, fixed at this date for such tracts by said party of the first part as per schedule on page 3 hereof; that said lands being unpatented, the party of the first part does not guarantee the possession of them to the part.. of the second part, and will not be responsible to ..... for damages or cost in case of ..... failure to obtain and keep such possession.

It is further agreed that if the party of the first part shall obtain patent for part of the lands herein described, and shall fail to obtain patent for the remainder of them, this contract shall in all its provisions be and remain in full force and virtue as to the tracts patented, and shall, except as to repayments herein provided for, be null and void as regards those tracts for which it shall be finally determined that patents cannot be obtained.

It is further agreed that the part.. of the second part

will never deny that the tracts herein described, or any part of them, are a part of said grant, and will do no act to hinder, delay, or impede the obtaining of patent for them by the party of the first part; and that ..... will not obtain or hold possession of all or any of them adversely to said party of the first part.

It is further agreed that this contract shall not be assignable, except by endorsement, and with the written consent of the party of the first part and the written promise of the assignee.. to perform all the undertakings and promises of the part.. of the second part as above set forth.

It is further agreed that the part.. of the second part shall pay $3.00 for expenses of the acknowledgments to the deed that shall be issued on this contract.

In testimony whereof, the party of the first part has caused these presents to be signed in duplicate by its secretary and land agent, and the part.. of the second part ha.. signed ..... name.. hereto.

....,

Land Agent S. P. R. R. Co.

....,

Secretary S. P. R. R. Co.

.....(Seal)

.....(Seal)

Schedule of prices at which the lands described in This Contract have been sold this ..... day of ..... 189...

	Fraction	Sec.	Tp.	Range.	B. & M.	No. of Acres	Rate per Acre	Amount.
							$	$

....., the part.. of the second part in the within contract No. ....., for and in consideration of ..... dollars, to ..... in hand paid, do.. hereby sell, assign, and transfer all ..... right, title, interest, and claim in and to the within-described tract.. or parcel..of land, and the within contract ..... unto ....., h.. heirs and assigns forever, subject to the stipulations and conditions therein contained, which are to be performed by said assignee.

Given under ..... hand and seal.. this ..... day of ....., A. D. 18..

..... [Seal.]

..... [Seal.]

State of California, }
..... County of ..... } ss.

On this ..... day of ....., in the year one thousand eight hundred and ....., before me, ..., a ..... in and for said county, personally appeared ....., known to me to be the person whose name ..... subscribed to the above instrument, and acknowledged to me that ..... executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

.....,

Notary Public.

On this ..... day of ....., 18.., in consideration of the above and foregoing assignment to me, ... hereby agree with the assignor therein named, and with

the Southern Pacific Railroad Company, to do and perform all the stipulations and conditions in the within contract required to be done and performed by the part.. thereto of the second part.

..... [Seal.]

..... [Seal.]

P. O. Address .....

San Francisco, Cal., ..., 18...

The Southern Pacific Railroad Company hereby consents to the above assignment to .....

.....,

By .....,

Its Land Agent.

[Endorsed]: Unpatented lands. No. ..... Contract for a deed. Southern Pacific Railroad Company to ..... Dated ....., 189... Interest, $...., due on the ..... day of ..... of each year. Remainder of principal $....., due on the ..... day of ....., 189...

U. S. vs. S. P. Consd. 675, 587, and 662. Defendants' Exhibit No. 47. Stephen Potter, Special Examiner.

Defendants' Exhibit No. 48.

GL. I. A. (Old G 84) 8-31-94.

Deed No. .....

To All to Whom These Presents Shall Come:

The Southern Pacific Railroad Company, a corporation duly incorporated and organized under the laws of the State of California, and D. O. Mills and Gerrit L. Lan-

sing, trustees of all the lands of the said Southern Pacific Railroad Company, lying in the State of California, which remained unsold on the first day of April, A. D. 1875, send greeting:

Whereas, on the first day of April, A. D. 1875, the said Southern Pacific Railroad Company conveyed all its lands lying in the State of California, then unsold, of which the lands hereinafter described were and are a part, to D. O. Mills and Lloyd Tevis, to hold in trust as security for the payment of forty-eight thousand bonds, forty-four thousand thereof for the sum of one thousand dollars each, and four thousand thereof for the sum of five hundred dollars each, issued and to be issued by said Southern Pacific Railroad Company in seven series, to be designated by the letters of the alphabet, commencing with the letter A, and followed by the succeeding letters in regular order to and including the letter G; series A to consist of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive; series B to F, both inclusive, to consist of five thousand bonds each, for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive; series G to consist of six thousand bonds, for one thousand dollars each, numbered from forty-two thousand and one to forty-eight thousand, both inclusive. All of said bonds payable thirty years after date, with interest at the rate of six per centum per annum, payable semi-annually, said

series A to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said Southern Pacific Railroad Company may direct; all of said bonds aggregating the sum of forty-six millions of dollars;

And whereas, said deed of trust, among other matters, provided that the said Southern Pacific Railroad Company should have the sole and exclusive control and management of said lands, with full power to make sales of the same upon such terms and conditions as might, from time to time, be agreed upon between the said railroad company and the said trustees; and that when such sales had been made and the purchase money fully paid, the said company and the said trustees should unite in a conveyance in fee simple of the lands so sold to the purchaser or purchasers thereof, which conveyance should absolutely and forever release the lands so conveyed from any and all lien or encumbrance for or on account of said bonds, or any other debt or obligation of the said railroad company;

And whereas, on the 24th day of March, 1883, Lloyd Tevis, one of the trustees, did resign his trust under said conveyance of the first of April, 1875; and whereas, on the 3d day of April, 1883, the said D. O. Mills, the remaining trustee under said conveyance, did, pursuant to the terms of his trust, nominate Gerrit L. Lansing, of the city of San Francisco, and State of California, to fill the vacancy caused by the resignation of said Lloyd Tevis;

And whereas, on the 17th day of April, 1883, the board

of directors of the said Southern Pacific Railroad Company, pursuant to the terms of said trust, did ratify and approve said nomination, and did appoint said Gerrit L. Lansing to fill said vacancy; and whereas, on the 18th day of April, 1883, the said Gerrit L. Lansing did *formerly* accept the position of trustee under said deed of trust;

And whereas, said deed of trust further provided that, for the sake of convenience in making said conveyances, the said trustees should have power to act by attorney, duly nominated and appointed by them jointly by letter of attorney, which should be duly acknowledged and recorded in each and all the counties in which said lands, or any part thereof, are situated, and that all deeds made in their name by such attorney should have the same force and effect as if made by them in person;

And whereas, on the 21st day of April, 1883, said trustees, D. O. Mills and Gerrit L. Lansing, acting under the power so vested in them, did nominate, constitute, and appoint, by letter of attorney, duly acknowledged and recorded as aforesaid, Jerome Madden, of the city and county of San Francisco, and State of California, their true and lawful attorney, in their names, place, and stead, to make, execute, and deliver all conveyances required of them as aforesaid;

And whereas, the said railroad company contracted to sell the lands hereinafter described, pursuant to the foregoing conditions, to ....., for the sum of ..... dollars, which sum has been fully paid to the said D. O. Mills and Gerrit L. Lansing, trustees as aforesaid .....
.....

Now, therefore, in consideration of the premises, and the said sum of ..... dollars, the receipt whereof is hereby acknowledged, the said Southern Pacific Railroad Company, and the said D. O. Mills and Gerrit L. Lansing, trustees as aforesaid, do grant, bargain, sell, and convey to the said ....., and to ..... heirs and assigns, the following described tract.. of land situate, lying, and being in the county of ....., and State of California, to wit: ....., of section No. ....., in township ....., of range ....., ... base and meridian, containing ..... acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging; excepting and reserving all liability on the part of the Southern Pacific Railroad Company for taxes thereon since ....., 18.., the said purchaser.. having heretofore agreed with said company to pay the same ....., and also reserving all claim of the United States to said tract.. as mineral lands.

To have and to hold the aforesaid premises, to the said ....., ... heirs and assigns, to ..... and their use and behoof forever.

In testimony whereof, the said Southern Pacific Railroad Company has caused its name to be signed to these presents by its president and secretary, and its corporate seal to be hereunto affixed; and the said D. O. Mills and Gerrit L. Lansing, trustees, by their said attorney, Jerome Madden, have hereunto subscribed their names and af-

fixed their seals, this ..... day of ....., A. D. 189...

SOUTHERN PACIFIC RAILROAD COMPANY,

[Seal] By .....,

By ....., Its President.

Its Secretary. ..... [Seal.]

..... [Seal.]

Trustees.

By .....,

Their Joint Attorney in Fact.

State of California,
City and County of San Francisco. } ss.

On this.....day of....., in the year one thousand, eight hundred and ninety-....., before me, ..., a notary public in and for said city and county of San Francisco, State of California, personally appeared....., known to me to be the president, and....., known to to me to be the secretary, of the corporation that executed the within instrument; and each of them acknowledged to me that such corporation executed the same; also, on this the day aforesaid, before me, the notary public aforesaid, personally appeared Jerome Madden, known to me to be the person whose name is subscribed to the within instrument, as the attorney in fact of D. O. Mills and Gerrit L. Lansing, and acknowledged to me that he subscribed the names of the said D. O. Mills and Gerrit L. Lansing thereto as principals, and his own name as attorney in fact.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, on the day and year above written.

[Seal] ....., Notary Public in and for the City and County of San Francisco, and State of California.

[Endorsed]: Deed No.....Southern Pacific Railroad Co., D. O. Mills, and Gerrit L. Lansing, Trustees, to ..... Deed. Dated....., 189..

U. S. v. S. P. Cons*d*. 675, 587, and 662. Defendants' Exhibit No. 48. Stephen Potter, Special Examiner.

Defendants' Exhibit No. 49.

United States Landoffice.

Los Angeles, California.

December 19th, 1883.

LIST NO. 12.

LANDS SELECTED.

By the

SOUTHERN PACIFIC RAILROAD COMPANY.

Granted Limits.

Office of the Southern Pacific Railroad Company,
San Francisco, California.

I, Joseph L. Willcutt, secretary of the Southern Pacific Railroad Company, do hereby certify that Jerome Madden

was appointed land agent of the said Southern Pacific Railroad Company by the board of directors of said company, at a meeting held on the tenth (10) day of May, A. D. 1876, and that since that time he has been continuously, and is now, the land agent of the said Southern Pacific Railroad Company.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of the said Southern Pacific Railroad Company, the 1st day of December, A. D. 1883.

[Seal of Southern Pacific Railroad Company.]

JOSEPH L. WILLCUTT,

Secretary of the Southern Pacific Railroad Company.

LIST OF LANDS

in the

Los Angeles Land District,

California.

SELECTED BY THE

SOUTHERN PACIFIC RAILROAD COMPANY.

of California.

The undersigned, the duly authorized land agent of the Southern Pacific Railroad Company of California, under and by virtue of the 23d section of the act of Congress, approved March 3rd, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and un-

der and by virtue of the act of Congress, approved July 27th, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," and the further act approved July 25th, 1868, entitled "An act to extend the time for the construction of the Southern Pacific Railroad in the State of California," and the joint resolution of Congress, approved June 28th, 1870, "concerning the Southern Pacific Railroad of California," and under and in pursuance of the rules and regulations prescribed by the commissioner of the general landoffice, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants, and provisions of the said acts of Congress, and the location of the line of route of the railroad and telegraph of said company; being in part for the fifth (5) section (one hundred and eighteen 37-100 (118.37) miles) of the same, commencing at a point in S. W. ¼, sec. 24, T. 5 S., R. 7 E., S. B. B. and M., and ending at the termination of the 118 37-100 mile southeasterly therefrom, which said section of road and telegraph has been accepted by the President of the United States, as provided in the aforesaid acts and joint resolution of Congress. The selections being particularly described as follows.

JEROME MADDEN,
Land Agent of the Southern Pacific Railroad Company.

RAILROAD LIST. South of Base Line and East of San Bernardino principal Meridian

No.	Part of Section	No. of Section	No. of Town	No. of Range	AREA Acres	100	Fees of Register and Receiver		Remarks
	Fracl. S 1/2	19	16 S.	22 E.	320.	40	4	00	

State of California,
City and County of San Francisco. } ss.

I, Jerome Madden, being duly sworn, depose and say that I am the land agent of the Southern Pacific Railroad Company; that the foregoing list of lands which I hereby select is a correct list of a portion of the public lands claimed by the said Southern Pacific Railroad Company as inuring to it, to aid in the construction of the railroad of said company from Indio to Yuma, for which a grant of lands was made by the acts of Congress approved March 3d, 1871, July 27th, 1866, July 25th, 1868, and June 28th, 1870, as aforesaid; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of one hundred and eighteen 37-100 (118.37) miles, being for the fifth (5th) section of said road, starting from a point in the S. W. ¼, sec. 24, T. 5 S., R. 7 E., S. B. B. and M., and ending at the termination of the 118 37-100 mile southeasterly therefrom.

JEROME MADDEN. [Seal]

Sworn to and subscribed before me this 10th day of December, 1883.

[Seal of Superior Court, City and County of San Francisco, Cal.]

J. D. RUGGLES,
Deputy County Clerk of the City and County of San Francisco, California, and ex-officio Deputy Clerk of the Superior Court thereof, the same being a Court of Record.

United States Landoffice,

Los Angeles, Cal., December 19, 1883.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Southern Pacific Railroad Company, under the grant to the said Southern Pacific Railroad Company, by acts of Congress approved March 3d, 1871, July 27th, 1866, July 25th, 1868, and June 28th, 1870, above mentioned, and selected by Jerome Madden, the duly authorized agent; and we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limit of twenty (20) miles on each side; and that the same are not, nor is any part thereof, returned and denominated as mineral land or lands, nor claimed as swamp lands; nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act act of Congress approved July 1, 1864, and contemplated by the circular of instructions dated January 24, 1867, addressed by the commissioner of the general landoffice, to registers and receivers of the United States landoffices; and that the said company have paid to the undersigned,

the receiver, the full sum of four ($4.00) dollars, in full payment and discharge of said fees.

CHAS. R. JOHNSON,
Register.

J. W. HAVERSTICK,
Receiver.

United States Surveyor General's Office,

San Francisco, California, December 10th, 1883.

I, W. H. Brown, surveyor general for the United States in and for the State of California, hereby report and certify that the Southern Pacific Railroad Company has this day filed with me, at San Francisco, a duplicate certificate of deposit No. 117, dated December 10th, 1883, to the credit of the United States, showing that the sum of $10.80 has been deposited as cost of survey, and $3.60 for office work, and that the said sums are the correct amount of the cost of survey and office work for the lands mentioned and described in the list of lands hereto annexed, to the extent of said list.

Survey	$10.80
Office work	3.60
	$14.40

In testimony whereof, I have hereunto set my hand and official seal.

[Seal of Surveyor General's Office, California.]

W. H. BROWN,
Surveyor General.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.	Consolidated Nos. 675, 587, and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original document entitled "List No. 12, Lands Selected by the Southern Pacific Railroad Company, Granted Limits," marked "Defendants' Exhibit No. 49," in the above cause, and find it to be a correct copy of said original, in so far as it describes lands which are shown on Exhibit "A," attached to the answer, not to have been patented to the company, and of the certificates attached therto.

San Francisco, Cal., January 18th, 1898.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: U. S. v. S. P. Cons*d*. 675, 587 and 662. Copy of Defendants' Exhibit No. 49.

Defendants' Exhibit No. 50.

United States Landoffice.

Los Angeles, California.

April 23rd, 1888.

LIST NO. 40.

LANDS SELECTED

by the

SOUTHERN PACIFIC RAILROAD COMPANY.

Granted Limits.

Branch Line.

Office of the Southern Pacific Railroad Company,

San Francisco, California.

I, Joseph L. Willcutt, secretary of the Southern Pacific Railroad Company, do hereby certify that Jerome Madden was appointed land agent of the said Southern Pacific Railroad Company by the board of directors of said company, at a meeting held on the tenth (10th) day of May, A. D. 1876, and that since that time he has been continuously, and is now, the land agent of the said Southern Pacific Railroad Company.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of the said Southern Pacific Railroad Company, the 17th day of April, A. D. 1888.

[Seal of Southern Pacific Railroad Company.]

JOSEPH L. WILLCUTT,

Secretary of the Southern Pacific Railroad Company.

LIST OF LANDS

in the

Los Angeles Land District, California.

SELECTED BY THE

SOUTHERN PACIFIC RAILROAD COMPANY.

of California.

The undersigned, the duly authorized land agent of the Southern Pacific Railroad Company of California, under and by virtue of the 23rd section of the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and under and by virtue of the act of Congress, approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," and the further act approved July 25, 1868, entitled "An

act to extend the time for the construction of the Southern Pacific Railroad in the State of California," and the joint resolution of Congress, approved June 28, 1870, "concerning the Southern Pacific Railroad of California," and under and in pursuance of the rules and regulations prescribed by the commissioner of the general landoffice, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the railroad and telegraph of said company; being in part for the second (2nd) and third (3rd) sections (one hundred (100) miles) of the same, commencing at a point in N. E. ¼, sec. 27, T. 1 S., R. 9 W., S. B. B. and M., and ending at a point in S. W. ¼, sec. 24, T. 5 S., R. 7 E., S. B. B. and M., which said sections of road and telegraph have been duly accepted by the President of the United States, as provided in the aforesaid act and joint resolution of Congress. The selections being particularly described as follows.

JEROME MADDEN,

Land Agent of the Southern Pacific Railroad Company.

RAILROAD LIST. North of Base Line, and West of San Bernardino principal Meridian.

No.	Part of Section	No. of Section	No. of Town.	No. of Range	Area		Fees of Register and Receiver		Remarks.
					Acres	100			
	N. W. 1/4.	27	1N.	3W.	(160	00)			

State of California,
City and County of San Francisco. } ss.

I, Jerome Madden, being duly sworn, depose and say that I am the land agent of the Southern Pacific Railroad Company; that the foregoing list of lands which I hereby select is a correct list of a portion of the public lands claimed by the said Southern Pacific Railroad Company as inuring to it, to aid in the construction of the railroad of said company from Spadra to Indio, for which a grant of lands was made by the acts of Congress approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, as aforesaid; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of one hundred (100) miles, being for second and third sections of said road, starting from a point in N. E. ¼, sec. 27, T. 1 S., R. 9 W., S. B. B. and M., and ending at a point in S. W. ¼, sec. 24, T. 5 S., R. 7 E., S. B. B. and M.

JEROME MADDEN. [Seal]

Sworn to and subscribed before me this seventeenth day of April, 1888.

Witness my hand and official seal.

[Seal of Holland Smith, Notary Public, City and County of San Francisco.]

HOLLAND SMITH,
Notary Public in and for the City and County of San Francisco, State of California.

United States Landoffice,

Los Angeles, Cal., April 23rd, 1888.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Southern Pacific Railroad Company, under the grant to the said Southern Pacific Railroad Company, by acts of Congress, approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, above mentioned, and selected by Jerome Madden the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct, except as herein noted; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limit of twenty (20) miles on each side; and that the same are not, nor is any part thereof, returned and denominated as mineral land or lands, nor claimed as swamp lands; nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act of Congress, approved July 1, 1864, and contemplated by the circular of instructions dated January 24, 1867, addressed by the commissioner of the general landoffice to registers and receivers of the United States landoffices; and that the said company have paid to the undersigned,

the receiver, the full sum of four hundred and eight 50-100 dollars ($408.50), in full payment and discharge of said fees.

H. W. PATTON,
Register.

J. H. POLK,
Receiver.

San Francisco, California, 17th April, 1888.

The Southern Pacific Railroad Company pays, under protest, the expenses of surveying the lands described in this list, because it claims to be exempted from such payment by provisions of the grant of lands made to it by Congress.

JEROME MADDEN,
Land Agent So. Pac. R. R. Co.

United States Surveyor General's Office.

San Francisco, California, April 18th, 1888.

I, R. P. Hammond, Jr., surveyor general for the United States, in and for the State of California, hereby report and certify that the Southern Pacific Railroad Company has this day filed with me, at San Francisco, a duplicate certificate of deposit No. 277, dated April 17th, 1888, to the credit of the United States, showing that the sum of $1,101.96 has been deposited as cost of survey, and $367.32 for office work, and that the said sums are the correct amount of the cost of survey and office work for the lands mentioned and described in the list of lands hereto annexed, to the extent of said list.

Survey	$1,101.96
Office work	367.32
	$1,469.28

In testimony whereof, I have hereunto set my hand and official seal.

[Seal of Surveyor General's Office, California.]

R. P. HAMMOND, Jr.,
Surveyor General.

(Copy.)

State of California,
City and County of San Francisco. } ss.

Jerome Madden, being duly sworn, deposes and says that he is now, and has been continuously since the 10th day of May, 1876, the land agent of the Southern Pacific Railroad Company; that he has caused the N. ½ of sec. 27, T. 1 N., R. 3 W., S. B. M., selected in said company's Los Angeles list No. 40, granted limits, to be carefully examined by the agents and employees of said company as to its mineral or agricultural character, and that to the best of his knowledge and belief no part of said tract is mineral land. JEROME MADDEN.

Subscribed and sworn to before me this 30th day of March, 1897.

[Notary's Seal] E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.
} Consolidated Nos. 675, 587, and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original document entitled "List No. 40, Lands Selected by the Southern Pacific Railroad Company, Granted Limits," marked "Defendants' Exhibit No. 50" in the above cause, and find it to be a correct copy of said original, in so far as it describes lands which are shown on Exhibit "A," attached to the answer, not to have been patented to the company, and of the certificates attached thereto.

San Francisco, Cal., January 18th, 1898.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: U. S. v. S. P. Consd. 675, 587, and 662. Copy of Defendants' Exhibit No. 50.

Defendants' Exhibit No. 51.

United States Landoffice,

Los Angeles, California.

November 25th, 1889.

LIST NO. 49.

LANDS SELECTED

by the

SQUTHERN PACIFIC RAILROAD COMPANY.

Granted Limits.

Branch Line.

Office of the Southern Pacific Railroad Company,

San Francisco, California.

I, Joseph L. Willcutt, secretary of the Southern Pacific Railroad Company, do hereby certify that Jerome Madden was appointed land agent of the said Southern Pacific Railroad Company by the board of directors of said company, at a meeting held on the tenth (10) day of May, A. D. 1876, and that since that time he has been continuously, and is now, the land agent of the said Southern Pacific Railroad Company.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of the said Southern Pacific Railroad Company, the 8th day of November, A. D. 1889.

[Seal of Southern Pacific Railroad Company.]

JOSEPH L. WILLCUTT,

Secretary of the Southern Pacific Railroad Company.

LIST OF LANDS

in the

Los Angeles Land District, California.

SELECTED BY THE

SOUTHERN PACIFIC RAILROAD COMPANY.

of California.

The undersigned, the duly authorized land agent of the Southern Pacific Railroad Company, of California, under and by virtue of the 23d section of the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and under and by virtue of the act of Congress, approved July 27, 1866, entitled "An act granting lands

to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," and the further act, approved July 25, 1868, entitled "An act to extend the time for the construction of the Southern Pacific Railroad in the State of California," and the joint resolution of Congress, approved June 28, 1870, "concerning the Southern Pacific Railroad of California," and under and in pursuance of the rules and regulations prescribed by the commissioner of the general landoffice, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the railroad and telegraph of said company; being in part for the second (2d) section fifty (50) miles) of the same, commencing at Spadra and ending at San Gorgonio, which said section of road and telegraph has been duly accepted by the President of the United States, as provided in the aforesaid acts and joint resolution of Congress. The selection being particularly described as follows.

JEROME MADDEN,
Land Agent of the Southern Pacific Railroad Company.

RAILROAD LIST. South of Base Line, and West of San Bernardino principal Meridian

No.	Part of Section	No. of Section	No. of Town.	No. of Range	Area Acres 100	Fees of Register and Receiver	Remarks.
10217	S. E. 1/4 of S. E. 1/4.	29	1 S.	1 W.	40 00	$ 2 00	
					Patented in Patent 42, Dec. 12, 1896.		

State of California,
City and County of San Francisco. } ss.

I, Jerome Madden, being duly sworn, depose and say that I am the land agent of the Southern Pacific Railroad Company; that the foregoing list of lands which I hereby select is a correct list of a portion of the public lands claimed by the said Southern Pacific Railroad Company as inuring to it, to aid in the construction of the railroad of said Company from Sparda to San Gorgonio, for which a grant of lands was made by the acts of Congress approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, as aforesaid; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of fifty (50) miles, being for the second (2d) section of said road, starting from a point in N. E. ¼, sec. 27, T. 1 S., R. 9 W., S. B. B. M., and ending at a point in S. W. ¼, sec. 4, T. 3 S., R. 1 W., S. B. B. and M.

JEROME MADDEN. [Seal]

Sworn to and subscribed before me this 8th day of November, 1889. Witness my hand and notarial seal.

[Seal of James J. Green, Notary Public, City and County of San Francisco, Cal.]

JAMES J. GREEN,
Notary Public in and for the City and County of San Francisco, in the State of California.

United States Landoffice.

Los Angeles, Cal., November 25th, 1889.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Southern Pacific Railroad Company, under the grant to the said Southern Pacific Railroad Company, by acts of Congress, approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, above mentioned, and selected by Jerome Madden the duly authorized agent; and we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limit of twenty (20) miles on each side; and that the same are not, nor is any part thereof, returned and denominated as mineral land or lands, nor claimed as swamp lands; nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the Act of Congress, approved July 1, 1864, and contemplated by the circular of instructions dated January 24, 1867, addressed by the commissioner of the general landoffice to registers and receivers of the United States landoffices; and that the said company have paid to the undersigned.

the receiver, the full sum of two dollars ($2.00), in full payment and discharge of said fees.

H. W. PATTON,
Register.

J. H. POLK,
Receiver.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.	Consolidated Nos. 675, 587, and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original document entitled "List No. 49 Lands Selected by the Southern Pacific Railroad Company, Granted Limits," marked "Defendants' Exhibit No. 51" in the above cause, and find it to be a correct copy of said original, in so far as it describes lands which are shown on Exhibit "A," attached to the answer, not to

have been patented to the company, and of the certificates attached thereto.

San Francisco, Cal., January 18th, 1898.

STEPHEN POTTER,

Special Eaminer.

[Endorsed]: U. S. vs. S. P. Cons*d*. 675, 587, and 662. Copy of Defendants' Exhibit No. 51.

Defendants' Exhibit No. 52.

United States Landoffice.

Los Angeles, California.

October 26, 1891.

LIST NO. 64.

LANDS SELECTED.

By the

SOUTHERN PACIFIC RAILROAD COMPANY.

Granted Limits.

Branch Line.

Office of the Southern Pacific Railroad Company,

San Francisco, California.

I, Joseph L. Willcutt, secretary of the Southern Pacific Railroad Company, do hereby certify that Jerome Madden

was appointed land agent of the said Southern Pacific Railroad Company by the board of directors of said company, at a meeting held on the tenth (10th) day of May, A. D. 1876, and that since that time he has been continuously, and is now, the land agent of the said Southern Pacific Railroad Company.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of the said Southern Pacific Railroad Company, the 16th day of October, A. D. 1891.

[Seal of Southern Pacific Railroad Company.]

JOSEPH L. WILLCUTT,
Secretary of the Southern Pacific Railroad Company.

LIST OF LANDS

in the

Los Angeles Land District, California,

SELECTED BY THE

SOUTHERN PACIFIC RAILROAD,

of California.

The undersigned, the duly authorized land agent of the Southern Pacific Railroad Company of California, under and by virtue of the 23d section of the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and under and by virtue of the act of Congress, approved July 27, 1866, entitled "An act granting lands to aid in the

construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," and the further act, approved July 25, 1868, entitled "An act to extend the time for the construction of the Southern Pacific Railroad in the State of California," and the joint resolution of Congress, approved June 28, 1870, "concerning the Southern Pacific Railroad of California," and under and in pursuance of the rules and regulations prescribed by the commissioner of the general landoffice, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the railroad and telegraph of said company; being in part for the second (2nd) and third (3d) sections (one hundred (100) miles) of the same, commencing at Spadra and ending at Indian Wells (Indio), which said sections of road and telegraph have been duly accepted by the President of the United States, as provided in the aforesaid acts and joint resolution of Congress. The selections being particularly described as follows:

JEROME MADDEN,
Land Agent of the Southern Pacific Railroad Company.

State of California,
City and County of San Francisco. } ss.

I, Jerome Madden, being duly sworn, depose and say that I am the land agent of the Southern Pacific Railroad Company; that the foregoing list of lands which I hereby select is a correct list of a portion of the public lands

claimed by the said Southern Pacific Railroad Company as inuring to it, to aid in the construction of the railroad of said company from Spadra to Indian Wells (Indio) for which a grant of lands was made by the acts of Congress approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, as aforesaid; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of one hundred (100) miles, being for the second (2d) and third (3d) sections of said road, starting from a point in the northeast quarter of section 27, township 1 south, range 9 west, S. B. B. and M., and ending at a point in the southwest quarter of section 24, township 5 south, range 7 east., S. B. B. and M.

JEROME MADDEN. [Seal]

Sworn to and subscribed before me this seventeenth (17th) day of October, 1891. Witness my hand and notarial seal.

[Seal of E. Black Ryan, Notary Public. City and County of San Francisco, Cal.]

E. B. RYAN,

Notary Public in and for the City and County of San Francisco, in the State of California.

United States Landoffice.

Los Angeles, Cal., October 26, 1891.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the

Southern Pacific Railroad Company, under the grant to the said Southern Pacific Railroad Company, by acts of Congress, approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, above mentioned and selected by Jerome Madden, the duly authorized agent, and we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limit of twenty (20) miles on each side; and that the same are not, nor is any part thereof, returned and denominated as mineral land or lands, nor claimed as swamp lands; nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office, except as noted on list.

We further certify that the foregoing list shows as assessment of the fees payable to us allowed by the act of Congress, approved July 1, 1864, and contemplated by the circular of instructions dated January 24, 1867, addressed by the commissioner of the general landoffice to registers and receivers of the United States landoffices, and that the said company have paid to the undersigned, the receiver, the full sum of one hundred and fifty-seven ($157.00) dollars in full payment and discharge of said fees.

W. H. SEAMANNS,
Register.

G. W. BRYANT,
Receiver.

United States Surveyor General's Office.

San Francisco, California, October 20, 1891.

I, Wm. H. Pratt, surveyor general for the United States, in and for the State of California, hereby report and certify that the Southern Pacific Railroad Company has this day filed with me at San Francisco, a duplicate certificate of deposit No. 81, dated October 19th, 1891, to the credit of the United States, showing that the sum of $423.60 has been deposited as cost of survey, and $141.20 for office work, and that the said sums are the correct amount of the cost of survey and office work for the lands mentioned and described in the list of lands hereto annexed, to the extent of said list.

Survey	$423.60
Office work	141.20
	$564.80

In testimony whereof, I have hereunto set my hand and official seal.

[Seal of Surveyor General's Office, California.]

WM. H. PRATT,
Surveyor General.

San Francisco, Cal., October 16, 1891.

The Southern Pacific Railroad Company pays, under protest, the expense of surveying the lands described in the within list, as it claims to be exempt from such payment by provisions of the grant of lands to it by Congress.

JEROME MADDEN,
Land Agent So. Pac. R. R. Co.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES,
Complainants,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al.,
Defendants.

Consolidated Nos. 675, 587, and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original document entitled "List No. 64, Lands Selected by the Southern Pacific Railroad Company, Granted Limits," marked "Defendants' Exhibit No. 52" in the above cause, and find it to be a correct copy of said original, in so far as it describes lands which are shown on Exhibit "A," attached to the answer, not to have been patented to the company, and of the certificates attached thereto.

San Francisco, Cal., January 18, 1898.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: U. S. vs. S. P. Consd. 675, 587, and 662, Copy of Defendants' Exhibit No. 52.

Defendants' Exhibit No. 53.

United States Landoffice.

Los Angeles, California.

1892.

LIST NO. 70.

LANDS SELECTED

by the

SOUTHERN PACIFIC RAILROAD COMPANY.

Granted Limits.

Branch Line.

Office of the Southern Pacific Railroad Company.

San Francisco, California.

I, Joseph L. Willcutt, secretary of the Southern Pacific Railroad Company, do hereby certify that Jerome Madden was appointed land agent of the said Southern Pacific Railroad Company by the board of directors of said company, at a meeting held on the tenth (10) day of May, A. D. 1876, and that since that time he has been continuously and is now the land agent of the said Southern Pacific Railroad Company.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of the said Southern Pacific Railroad Company, the 11th day of April, A. D. 1892.

[Seal of Southern Pacific Railroad Company.]

JOSEPH L. WILLCUTT,
Secretary of the Southern Pacific Railroad Company.

LIST OF LANDS

in the

Los Angeles Land District, California,

SELECTED BY THE

SOUTHERN PACIFIC RAILROAD COMPANY

of California.

The undersigned, the duly authorized land agent of the Southern Pacific Railroad Company of California, under and by virtue of the 23d section of the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and under and by virtue of the act of Congress, approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," and the

further act, approved July 25, 1868, entitled "An act to extend the time for the construction of the Southern Pacific Railroad in the State of California," and the joint resolution of Congress, approved June 28, 1870, "concerning the Southern Pacific Railroad of California," and under and in pursuance of the rules and regulations prescribed by the commissioner of the general landoffice, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the railroad and telegraph of said company; being in part for the second (2d) section (fifty (50) miles) of the same, commencing at Spadra and ending at San Gorgonio, which said section of road and telegraph have been duly accepted by the President of the United States, as provided in the aforesaid acts and joint resolution of Congress. The selections being particularly described as follows. JEROME MADDEN,

Land Agent of the Southern Pacific Railroad Company.

RAILROAD LIST. North of Base Line, and West of San Bernardino principal Meridian.

No.	Part of Section	No. of Section	No. of Town.	No. of Range	Area. Acres	Area. 100	Fees of Register and Receiver		Remarks
	E. ½	3	1 N.	2. W.	320.	00			Unsurveyed.
	All	1	1 N.	3. W.	640.	00			Do.
	All	7	"	"	640.	00			Do.

State of California,
City and County of San Francisco. } ss.

I, Jerome Madden, being duly sworn, depose and say that I am the land agent of the Southern Pacific Railroad Company; that the foregoing list of lands which I hereby select is a correct list of a portion of the public lands claimed by the said Southern Pacific Railroad Company as inuring to it, to aid in the construction of the railroad of said company from Spadra to San Gorgonio, for which a grant of lands was made by the acts of Congress approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, as aforesaid; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of fifty (50) miles, being for the second (2d) section of said road, starting from a point in the northeast quarter of section 27, township 1 south, range 9 west, S. B. B. and M., and ending at a point in the southwest quarter of section 4, township 3 south, range 1 west, S. B. B. and M.

JEROME MADDEN. [Seal]

Sworn to and subscribed before me this eleventh (11th) day of April, 1892. Witness my hand and notarial seal.

[Seal of E. Black Ryan, Notary Public. City and County of San Francisco, Cal.]

E. B. RYAN,
Notary Public in and for the City and County of San Francisco, in the State of California.

United States Landoffice.

Los Angeles, Cal., ————, 1892.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Southern Pacific Railroad Company, under the grant to the said Southern Pacific Railroad Company, by acts of Congress, approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, above mentioned, and selected by Jerome Madden, the duly authorized agent; and we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limit of twenty (20) miles on each side; and that the same are not, nor is any part thereof, returned and denominated as mineral land or lands nor claimed as swamp lands; nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act of Congress, approved July 1, 1864, and contemplated by the circular of instructions dated January 24, 1867, addressed by the commissioner of the general landoffice to registers

and receivers of United States landoffices; and that the said company have paid to the undersigned, the receiver, the full sum of thirty-two ($32.00) dollars, in full payment and discharge of said fees.

_____,
Register.

_____,
Receiver.

San Francisco, Cal., April 11, 1892.

The Southern Pacific Railroad Company pays, under protest, the expense of surveying the lands selected in the within list, because it claims to be exempt from such payment by provisions of the grant of lands to it by Congress.

JEROME MADDEN,
Land Agent Southern Pacific R. R. Co.

United States Surveyor General's Office.

San Francisco, California, April 11, 1892.

I, Wm. H. Pratt, surveyor general for the United States, in and for the State of California, hereby report and certify that the Southern Pacific Railroad Company has this day filed with me, at San Francisco, a duplicate certificate of deposit No. 195, dated April 11, 1892, to the credit of the United States, showing that the sum of $86.40 has been deposited as cost of survey, and $28.80 for office work, and that the said sums are the correct amount of the cost of survey and office work for the lands mentioned and described in the list of lands hereto annexed, to the extent of said list.

Survey	$86.40
Office work	28.80
	$115.20

In testimony whereof, I have hereunto set my hand and official seal.

[Seal of Surveyor General's Office, California.]

WM. H. PRATT,
Surveyor General.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.

Consolidated Nos. 675, 587, and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original document entitled "List No. 70, Lands Selected by the Southern Pacific Railroad Company, Granted Limits," marked "Defendants' Exhibit No. 53," in the above cause, and find it to be a correct copy of said original, in so far as it describes lands which

are shown on Exhibit "A," attached to the answer, not to have been patented to the company, and of the certificates attached thereto.

San Francisco, Cal., January 18th, 1898.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: U. S. vs. S. P. Consd. 675, 587, and 662. Copy of Defendants' Exhibit No. 53.

Defendants' Exhibit No. 54.

United States Landoffice,

Los Angeles, California,

May 21st, 1896.

LIST NO. 89.

LANDS SELECTED

by the

SOUTHERN PACIFIC RAILROAD COMPANY.

Granted Limits.

Branch Line.

Office of the Southern Pacific Railroad Company,
San Francisco, California.

I, Joseph L. Willcutt, Secretary of the Southern Pacific Railroad Company, do hereby certify that Jerome Madden was appointed land agent of the said Southern

Pacific Railroad Company by the board of directors of said company, at a meeting held on the tenth (10th) day of May, A. D. 1876, and that since that time he has been continuously, and is now, the land agent of the said Southern Pacific Railroad Company.

In testimony whereof, I have hereunto set my hand and affixed the corporate seal of the said Southern Pacific Railroad Company, the 16th day of May, A. D. 1896.

[Seal of the Southern Pacific Railroad Company.]

JOSEPH L. WILLCUTT,
Secretary of the Southern Pacific Railroad Company.

LIST OF LANDS

of the

Los Angeles Land District, California,

SELECTED BY THE

SOUTHERN PACIFIC RAILROAD COMPANY

of California.

The undersigned, the duly authorized land agent of the Southern Pacific Railroad Company of California, under and by virtue of the 23d section of the act of Congress, approved March 3, 1871, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," and under and by virtue of the act of Congress,

approved July 27, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," and the further act, approved July 25, 1868, entitled "An act to extend the time for the construction of the Southern Pacific Railroad in the State of California," and the joint resolution of Congress, approved June 28, 1870, "concerning the Southern Pacific Railroad of California," and under and in pursuance of the rules and regulations prescribed by the commissioner of the general landoffice, hereby makes and files the following list of selections of public lands claimed by the said company as inuring to it, and to which it is entitled under and by virtue of the grants and provisions of the said acts of Congress, and the location of the line of route of the railroad and telegraph of said company, being in part for the first (1st), second (2d), and third (3d) sections (one hundred and fifty (150) miles) of the same, commencing at San Fernando and ending at Indian Wells (Indio), which said sections of road and telegraph have been duly accepted by the President of the United States, as provided in the aforesaid acts and joint resolution of Congress. The selections being particularly described as follows:

JEROME MADDEN,
Land Agent of the Southern Pacific Railroad Company.

State of California,
City and County of San Francisco. } ss.

I, Jerome Madden, being duly sworn, depose and say that I am the land agent of the Southern Pacific Railroad Company; that the foregoing list of lands which I hereby

select is a correct list of a portion of the public lands claimed by the said Southern Pacific Railroad Company as inuring to it, to aid in the construction of the railroad of said company from San Fernando to Indian Wells (Indio), for which a grant of lands was made by the acts of Congress approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, as aforesaid; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, being within the limits of twenty (20) miles on each side of the line of route for a continuous distance of one hundred and fifty (150) miles, being for the first (1st) second (2d), and third (3d) sections of said road, starting from a point in N. W. ¼, sec. 3, T. 2 N., R. 15 W., S. B. M., and ending at a point in S. W. ¼, sec. 24, T. 5 S., R. 7 E., S. B. B. and M.

JEROME MADDEN. [Seal]

Sworn to and subscribed before me this sixteenth (16th) day of May, 1896. Witness my hand and notarial seal.

[Seal of E. Black Ryan, Notary Public, City and County of San Francisco, Cal.]

E. B. RYAN,
Notary Public in and for the City and County of San Francisco, State of California.

San Francisco, Cal., May 16th, 1896.

The Southern Pacific Railroad Company pays, under protest, the expense of suveying the lands selected in the within list, because it claims to be exempt from such payment by provisions of the grant of lands to it by Congress.

JEROME MADDEN,
Land Agent Southern Pacific R. R. Co.

United States Surveyor General's Office,
San Francisco, California, May 16th, 1896.

I, W. S. Green, surveyor general for the United States, in and for the State of California, hereby report and certify that the Southern Pacific Railroad Company has this day filed with me, at San Francisco, a duplicate certificate of deposit No. 342, dated May 16, 1896, to the credit of the United States, showing that the sum of $977.19 has been deposited as cost of survey, and $325.73 for office work, and that the said sums are the correct amount of the cost of survey and office work for the lands mentioned and described in the list of lands hereto annexed, to the extent of said list.

Survey.....	$977.19
Office work	$325.73
Total,	$1,302.92

In testimony whereof, I have hereunto set my hand and official seal.

[Seal of Surveyor General's Office, California.]

W. S. GREEN,
Surveyor General.

United States Landoffice.
Los Angeles, Cal., May 21st, 1896.

We hereby certify that we have carefully and critically examined the foregoing list of lands claimed by the Southern Pacific Railroad Company, under the grant to the said Southern Pacific Railroad Company, by acts of

Congress approved March 3, 1871, July 27, 1866, July 25, 1868, and June 28, 1870, above mentioned, and selected by Jerome Madden, the duly authorized agent; and we have tested the accuracy of said list by the plats and records of this office, and that we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limit of twenty (20) miles on each side; and that the same are not, nor is any part thereof, returned and denominated as mineral land or lands, nor claimed as swamp lands; nor is there any homestead, pre-emption, State, or other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act of Congress, approved July 1, 1864, and contemplated by the circular of instructions dated January 24, 1867, addressed by the commissioner of the general landoffice to registers and receivers of the United States landoffices, and that the said company have paid to the undersigned, the receiver, the full sum of three hundred and sixty-two ($362.00) dollars, in full payment and discharge of said fees.

Q. J. BOLTON,
Register.

ENOCH KNIGHT,
Receiver.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

THE UNITED STATES, Complainants, vs. THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS et al., Defendants.	Consolidated Nos. 675, 587 and 662.

Certificate of Special Examiner.

I certify that I have compared the foregoing document with the original document entitled "List No. 89, Lands Selected by the Southern Pacific Railroad Company, Granted Limits," marked "Defendants' Exhibit No. 54" in the above cause, and find it to be a correct copy of said original, in so far as it describes lands which are shown on Exhibit "A," attached to the answer, not to have been patented to the company, and of the certificates attached thereto.

San Francisco, Cal., January 18, 1898.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: U. S. vs. S. P. Cons*d*. 675, 587 and 662. Copy of Defendant's Exhibit No. 54.

Defendants' Exhibit No. 55.

(4-83-250.)

Date. This indenture made and entered into this first day of April, A. D. 1875, by and between the Southern Pacific Railroad Company, a railroad corporation, duly incorporated and organized under and in pursuance of the laws of the State of California, party of the first part, Trustees. and D. O. Mills and Lloyd Tevis, of the city and county of San Francisco, California, parties of the second part, witnesseth: That

Purpose of Mortgage. Whereas, the said party of the first part desires to complete the construction and equipment of its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river, at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen, to the junction Route of railroad. with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to the

Texas Pacific Railroad near Fort Yuma; and also from Los Angeles to Wilmington on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, and to cancel its present bonded indebtedness for construction secured by a mortgage heretofore made and bearing date November first, eighteen hundred and seventy, and to that end intends and is about to issue its first mortgage bonds upon said railroad and telegraph line, and its rolling stock, fixtures, and franchises, and also upon the lands granted to it by Congress, by the act of Congress entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved July twenty-seventh, eighteen hundred and sixty-six, and the act entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy-one, not sold or otherwise disposed of prior to the execution of this mortgage, aggregating as near as can be estimated eleven millions of acres; and

Property Mortgaged includes land grants.

Whereas, heretofore, to wit, on the nineteenth day of December, A. D. eighteen hundred and seventy-four, the board of directors of said company, pursuant to the statute of the State of California, in such cases made and

provided, at a meeting of said board, at which all the members thereof were present, did, by a resolution to that effect, which was unanimously adopted and passed, determine and direct that first mortgage bonds upon said railroad and telegraph line, its rolling stock, fixtures and franchises, and upon said hereinbefore described lands, to the number of forty-eight thousand (forty-four thousand of which shall be for one thousand dollars each, and four thousand of which shall be for the sum of five hundred dollars each), in seven series to be designated by the letters of the alphabet, commencing with the letter "A," and followed by the succeeding letters in regular order to the letter "G," both inclusive, be prepared, executed and issued by the president and secretary of said company. Series "A" to consist of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds, for one thousand dollars each, numbered from seventeen thousand and one to forty-one thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight

Board of Directors authorize Mortgage to be made.

Description of Bonds.

thousand, both inclusive. All of said bonds being payable thirty years after date, with interest at the rate of six per centum per annum, payable semiannually. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars; and

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further resolve, that the said series "A" of said bonds should be executed and issued in substantially the following form, and that the succeeding series of said bonds should be in a similar form, with the necessary changes to conform to said resolutions or orders, which form is as follows, to wit:

The United States of America:

$1,000 in United States Gold Coin — In United States, $1,000 Gold Coin

Form of bond.

(Vignette)

First Mortgage Bond.

No. .... Series "A."

The Southern Pacific Railroad Company (of California), for value received, promises to pay

Rate of interest.

one thousand dollars to Mark Hopkins, or bearer, in the city of New York, thirty years from the date hereof, with interest thereon at

the rate of six per centum per annum from said date, payable semiannually on the first day of October next ensuing, and on the first day of April and October in each year thereafter, in the city of New York, on presentation and surrender of the respective coupons hereunto annexed, both principal and interest payable in United States gold coin at par, dollar for dollar.

This bond is one of series "A" of the first mortgage bonds issued and to be issued by the said Southern Pacific *Pacific* Railroad Company in seven series designated respectively by the letters of the alphabet, commencing with "A" and ending with "G," both inclusive. Series "A," consisting of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight thousand, both inclusive. All of said bonds being payable thirty years after their respective date, with the interest at the

Series.

rate of six per centum per annum, payable semiannually.

Dates. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars.

No preference by reason of priority. The holder of any of such bonds is to have no preference over any other holder of any of said bonds by reason of any priority in date or the time of issuing the same or otherwise.

All of said bonds are secured by a mortgage or deed of trust bearing even date with the bonds constituting series "A," duly executed by said company to D. O. Mills and Lloyd Tevis, San Francisco, California, as trustees, upon its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river at or near the "Needles"; also from

How secured. Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington on San

Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, with all the rolling stock, stations, fixtures and franchises for the permanent use thereof, and the appurtenances thereto now owned or held, or that may be hereafter required by said company for the permanent use of said railroad and telegraph lines.

Includes lands.

Also upon all the lands granted to said company by the Congress of the United States, to aid it in the construction of said railroad and telegraph lines, not sold or otherwise disposed of prior to the execution of said mortgage, aggregating, as near as can be estimated, eleven millions of acres.

In testimony whereof, the Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and these presents to be signed by its president and secretary this first day of April, in the year of our Lord one thousand eight hundred and seventy-five.

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that to each of said bonds there should be attached sixty interest coupons, numbered re-

spectively from one to sixty, inclusive, substantially in the following form, to wit:

Form of coupons.

$30 Series A

Southern Pacific Railroad Company of California.

Coupon. Bond No. ——. No. ——.

Thirty Dollars.

Interest due ———.

Payable in the City of New York in United States Gold Coin.

————————, Secretary.

with such changes in amount in the body and in the coupon as shall be necessary to conform to the order of the board of directors aforesaid, in regard to the several amounts or sums which are payable in each class of bonds; and

Whereas, by an act of Congress of the United States of America, approved on the twenty-seventh day of July, A. D. eighteen hundred and sixty-six, entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," there was granted to the said Southern Pacific Railroad Company, party of the first part, a large body of public lands of the United States, to wit: Every alternate section of public lands, designated by odd numbers, to the amount of ten alternate sections per mile on each side of the

railroad and telegraph line of said company running from the bay of San Francisco to the southeasterly line of the State of California, being about six hundred and thirty-six miles, not sold, reserved, granted, or otherwise appropriated, and free from pre-emption, homestead, or other claims or rights at the time the line of said road is designated by a plat thereof, filed in the office of the commissioner of the general landoffice and such other alternate sections designated by odd numbers as aforesaid, and situated not more than ten miles beyond the limits of the said first alternate sections, which may be selected by said company, in lieu of any of the sections first aforesaid which may have been sold, granted, reserved, pre-empted, occupied as homesteads, or otherwise disposed of, or to which other rights may have attached, as provided in the act of Congress aforesaid for the purpose of aiding in the construction of the railroad and telegraph line of the said party of the first part; and

U. S. Government Land grant.

Whereas, by an act of Congress of the U. S. of America, approved on the third day of March, eighteen hundred and seventy-one, entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," there was granted to the said Southern Pacific Railroad Company the authority to construct a line of railroad from a point near Tehachapi

Act of Congress authorizing the company to construct lines to connect with Texas

Pacific Railroad and Atlantic and Pacific Railroad.

Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same rights, land grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to and imposed upon the said Southern Pacific Railroad Company of California, by the aforesaid act of July twenty-seventh, eighteen hundred and sixty-six, before recited, subject to the rights, present and prospective, of the Atlantic and Pacific Railroad Company, which said last line of road is of the length of three hundred and fifty-six and seven one-hundredths miles; and

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that, to secure the payment of said bonds,

Mortgage to be executed to trustees.

a first mortgage upon said road and its rolling stock, stations, fixtures, right of way and franchises, and the lands aforesaid granted by said acts of Congress, not sold or otherwise disposed of, or contracted to be sold, as shown by the books of said company, should be executed under the corporate seal of said company, and be signed by its president and secretary, to D. O. Mills and Lloyd Tevis, both of the city and county of San Francisco, State of California, as trustees for the holders of said bonds; and

Sinking fund $100,000 yearly, commencing 1882.

Whereas, said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds, by setting apart the sum of one hundred thousand dollars of the net income of said road in the year eighteen hundred and eighty-two, and each year thereafter until all of said bonds, principal and interest, shall have been redeemed or paid, in trust to be loaned out at interest, upon good securities, or otherwise invested under the order and direction of said board of directors, or used to redeem said bonds as often as one hundred thousand dollars shall come into the sinking fund, in which case notice shall be published in one paper in the city of San Francisco and two papers in New York City, that bonds will be redeemed at a price not exceeding their par value, and inviting bids for the surrender thereof at prices to be named, not exceeding the par value of said bonds; the lowest bids less than par to be accepted, and bonds redeemed to the extent of the money in the sinking fund:

Redemption of bonds.

Now, therefore, this indenture witnesseth, that the said Southern Pacific Railroad Company, for the better securing of the payment of the principal and interest of the said first mortgage bonds, and in consideration also of the sum of one dollar, to it in hand paid by the

Description of property conveyed to trustees.

said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and aliened, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, convey and confirm unto the said parties of the second part, and to their successors duly appointed, for the execution of the trusts herein set forth, the following property now or hereafter constituted, purchased, acquired, held in possession and owned by said company, to wit: The whole of the railroad and telegraph line of the said company, running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley and Polonio Pass, to the Colorado river, at or near the "Needles"; also, from Carnadero Junction to San Benito; also, from Los Gatos creek, via Goshen, to the junction with the first mentioned line, between Poso creek and Kern river; also, from the junction near Tehachapi Pass, via Los Angeles, to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering-places, work-shops, machine-shops, machinery, sidetracks, turn-

outs, turn-tables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, full equipments, fixtures, tools and all other property which may be necessarily or ordinarily used in operating or repairing the said railroad, including all of the said property, which is now or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to said railroad, and all the corporate rights, privileges and franchises of said company, pertaining to said road, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues and profits thereof, with all the rights, titles, interests, estate, propety, succession, claim and demand, in law or equity, of the said party of the first part, of, in and to the same, or any part and parcel thereof; to have and to hold the above granted and described premises, property and franchises, with the appurtenances, unto the said parties of the second part, and to the survivor of them, and to their successors, duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies, politic or corporate, who shall have become, or be from time to time, holders of the said "first mortgage bonds," or any of them. Pro-

vided, always, and these presents are upon the express condition that if the said party of the first part, or its successors, shall well and truly pay, or cause or procure to be paid unto the holders, from time to time, of said bonds, and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and all the property, estate, right, franchises, and privileges herein and hereby granted and conveyed, shall cease, determine and be void. But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid, according to the terms of said bonds, then the said parties of the second part, or either of them, upon the refusal of the other, or their successors in said trust, by themselves, or their agents, or servants, in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds, on which the interest or principal shall so be and have so remained in default, as aforesaid, enter into and upon and take possession of all, or in their

Proceedings in event of default in payment.

or his discretion, any part of the said premises and property hereinbefore described, and work and operate the said railroad, and receive the income, receipts and profits thereof, and out of the same pay: First, the expenses of running and operating the same, including therein such reasonable compensation as they or he may allow to the several persons employed or engaged in the running and superintendence of the same, and a reasonable compensation to the parties of the second part, or their successors, or such of them as shall act in the premises, for their or his care, diligence and responsibility in the premises. Second, the expenses of keeping the said road, the appurtenances, the locomotives and the rolling stock thereof in good and sufficient repair, to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof. And third, pay as far as the same will suffice, all interest and principal, if any, which may be due on said bonds; and in case of any deficiency to apply said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind, or the said parties of the second part may in such case foreclose this mortgage, and sell and dispose of, according to law, all the rights, property, privileges, franchises, real and personal, with the appurtenances

herein and hereby granted, or so much thereof as may be necessary, and out of the money arising from such sale pay: First, the costs, and charges, and expenses of the foreclosure and sale, including therein reasonable counsel fees for conducting said proceedings, to be allowed and fixed by the Court, but not exceeding thirty thousand dollars. Second, any expenses, costs and charges of the execution of the trust previously incurred and remaining unpaid. Third, a reasonable compensation to the trustees, or one of them, who may act, for their or his care, trouble and service in completing the execution of his trust and the distribution of the proceeds of sale, to be fixed by the Court, but not exceeding twenty thousand dollars. And fourth, to distribute the residue of said proceeds among the holders of said bonds, in proportion to their several interests, until all have been paid in full, principal and accrued interests.

Proceeds from sale of depot lands, etc., not needed for such purpose may be sold and proceeds applied to redemption of bonds.

And the said party of the first part hereby covenants and agrees that if, at any time, any lands now used for depot or shop purposes, or right of way, or water, or any lands not now used, but which may be hereafter used for such purposes, shall, for any cause, cease to be needed or used by said party of the first part for such purposes, the said parties of the second part may sell the same at the price to be agreed upon by the parties of the first and second parts, and apply the money realized

from such sale or sales to the redemption of said bonds in the manner hereinafter provided, in the case of money realized from the sale of lands granted by the United States to the said party of the first part.

And the said party of the first part hereby agrees and covenants to and with the said parties of the second part, and their successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be imposed upon the property herein described and hereby mortgaged, and every part thereof, and the said parties of the second part, the survivor of them, or their successors in said trust, or any one or more of the holders of said bonds, may in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon, prior to these presents, or to which this mortgage may be subject or subordinate, and for all payments thus made the parties so making the same shall be allowed interest thereon at the rate of seven per centum per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money

Company to pay all taxes, assessments, etc., or, in default, trustees may pay and receive 7% interest on such payments.

wherein they shall have been paid, and the same shall be payable by said party of the first part to said parties of the second part, upon demand in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

And the said party of the first part hereby further covenants and agrees to and with the said parties of the second part, and their successors in said trust, that they will at any and all times hereafter, upon the request of the said parties of the second part, execute, acknowledge and deliver to the said parties of the second part, all and every such further, necessary and reasonable conveyances and assurances, of the said premises or any part thereof, as may, by the parties of the second part, or the survivor of them, or his or their successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance, and the said parties of the second part, and their successors in said trust, shall be entitled to receive a just and proper compensation for all services rendered by them in the discharge of said trust, and the same shall be deemed to be secured hereby.

Will execute any further conveyances required.

Compensation to trustees.

And it is hereby stipulated and agreed that the said parties of the second part, and their successors in said trust, shall not be responsi-

ble for the acts or omissions of any agent or agents employed by him or them, in any manner, in and about the execution of the trust hereby created when such agent or agents are selected with reasonable discretion; or with the approbation, or with the knowledge and without the express disapprobation of said party of the first part, nor shall either of the said parties of the second part be responsible for any act or omission of the other in the execution of said trust.

Agents of trustees.

And, therefore, this indenture further witnesseth: That the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the premises, and also for and in consideration of the sum of one dollar to the said party of the first part in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed and confirmed, and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm unto the said parties of the second part, as trustees, and to their successors and survivor, and their assigns forever,

Conveyance of land to trustees.

All and singular, the said several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever,

at law or in equity, of, in, or to the same, or any part or parcel thereof, which the said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire have, hold, own, or be, or become entitled to by force or virtue of the said acts of Congress; saving, excepting and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the said railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

Reserved lands.

To have and to hold all and singular the lands hereby granted or intended to be granted, and each and every part and parcel thereof, with the appurtenances thereunto belonging, unto the said parties of the second part, and their successors or survivor, and their assigns forever, as trustees, for the uses and purposes, and upon the trusts, terms, conditions, and agreements in this indenture set forth and declared.

Provided, always, and these presents are upon the express condition, that if the said party of the first part shall well and truly pay, or cause to be paid, to the holders of said bonds, and every of them, the principal sums

Lands shall revert to and vest in the S. P. R. R. if—

of money therein mentioned, according to the tenor thereof, with the interest thereon, at the times and in the manner hereinbefore provided, according to the true intent and meaning of these presents, then and from thenceforth this indenture and the estate hereby granted shall cease and determine, and all the right, title and interest in any and all property hereby conveyed to the parties of the second part, not then disposed of under the powers hereby conferred, shall revert to and vest in the said party of the first part.

This indenture further witnesseth, that these presents and the said bonds are made, executed and delivered upon the trusts, terms, conditions and agreements following, that is to say: That all the lands hereinabove conveyed and mortgaged shall be under the sole and exclusive management and control of the said party of the first part, who shall have full power and authority to make contracts for the sale of the same at such price, on such credit or terms of payment, and such other conditions as shall be agreed on by the said parties of the first and second parts, and as shall seem to them best calculated to secure the payment in full of all the bonds issued as hereinbefore provided, until entry or foreclosure by the trustees, as hereinafter provided. But no title to any tract of land, contracted to be sold by the said party of the first part, shall

Land to be under the control of S. P. R. R.

be given until the whole of the purchase money of said tract shall be paid to said parties of the second part, or their successors or survivor, in cash or in said bonds, or overdue coupons thereof. And for this purpose it is agreed that the said party of the first part and said trustees shall cause all such lands, as they shall from time to time become subject to sale, to be carefully examined and surveyed, and shall affix to each tract or parcel such price as in their judgment shall be most judicious, having in view the interests of all parties, and said lands shall be and remain at all times hereafter open for sale to any person who may desire to purchase and pay therefor; the prices being, nevertheless, at all times subject to revision and alteration by the said parties, and the party of the first part may reserve from sale any lands necessary for depot grounds, or other purposes connected with the construction or operation of the said railroad or telegraph.

Payments to be made to trustees.

Land to be graded, etc.

The purchaser of any such land shall be at liberty to pay for the same in the aforesaid bonds or overdue coupons at par; and when any tract or parcel of said lands shall have been purchased and paid for, either in bonds, coupons, or cash, as hereinbefore provided, the same shall be conveyed by the said parties of the first and second parts to the purchaser, in fee simple, and shall by such conveyance

Lands may be

paid for in bonds and overdue coupons.

be absolutely and forever released from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said party of the first part.

Trustees may convey land by power of attorney.

Provided, that for the sake of convenience in making said conveyances the said trustees shall have power to act by attorney, duly nominated and appointed by them, jointly, by letter of attorney, which shall be duly acknowledged and recorded in each and all of the counties in which said lands or any part thereof are situated; and all deeds made in their names by such attorney shall have the same force and effect as if made by them in person.

Residence of such attorney.

Provided, further, that the attorney so appointed shall be a resident of the city of San Francisco, in the State of California, and shall reside within convenient reach of the party of the first part.

Trustees to cancel bonds and coupons.

The said trustees shall and will cancel and discharge each and every bond and the coupons thereon, and all overdue coupons, which they may receive in payment for land, or by purchase, by defacing the seal of the corporation, perforating the signatures of the president and secretary, and drawing lines across each of the interest coupons, on receipt thereof; and all bonds and coupons received in payment for lands, as aforesaid, shall, when so canceled, be delivered to the said party of the part.

Proceeds of sales of lands shall be applied to the purchase of bonds.

The said trustees shall apply the proceeds of the sales made by them of lands hereby conveyed, to the sole and exclusive purpose of the payment of the bonds provided for in, and issued in conformity to, the terms of this indenture.

And for such purpose all such avails shall, from time to time, as the same are realized, be used in the purchase of such bonds in the market, to be canceled, so long as purchases thereof can be made at par; and whenever such bonds cannot be purchased at that rate, said trustees shall advertise for proposals to sell such bonds to them in two newspapers published in the city of New York, and one newspaper published in the city of San Francisco; and after receiving such proposals they shall have power to purchase such bonds at the lowest terms so offered.

How bonds shall be purchased.

The said party of the first part does hereby covenant and agree to pay to the holders of said bonds, respectively, the said principal sums of money therein mentioned and the interest thereof as aforesaid.

If any default shall be made in the payment either of principal or interest on any of said bonds for six months, after demand at the place of payment when the same shall become due, then the said trustees may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and

take possession of any of the lands above conveyed, and foreclose this mortgage, and may sell at public auction so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the costs, charges, and expenses of such entry, foreclosure and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and the said trustees may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage, and sell at public auction all said lands or so much thereof as may be necessary, first giving at least six months previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges and expenses of such last-mentioned entry, foreclosure and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part. In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute and deliver

In event of default in payments for six months, trustees may foreclose mortgage and dispose of lands at public auction sufficient to discharge all arrears.

a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any such foreclosure proceedings shall be commenced for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustees, and pay all the costs, charges and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustees shall discontinue their proceedings thereon, and restore to the said party of the first part all of such lands to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced. In case a vacancy shall happen in the number of trustees, hereinbefore mentioned as parties of the second part in this indenture, or if one of them shall be temporarily absent, the remaining trustee shall, while said vacancy or absence exists, have all the rights, exercise all the

Foreclosure proceedings for interest to cease if interest is subsequently paid.

powers and discharge all the duties devolving on said trustee by said instrument. But as soon as it conveniently may be done, such vacancy shall be filled by the nomination by the remaining trustee of some proper person to fill such vacancy, which nomination shall be submitted to the board of directors of said company, and, if approved by them, the person so nominated and approved immediately shall become a trustee under this instrument. If said nomination is not approved, another person shall be nominated by said remaining trustee, and in like manner submitted for approval, and so on till three nominations shall have been made. But if three successive nominations shall be made, and none of them shall be approved by the board, said vacancy shall be filled by a committee of three persons, selected, one by said remaining trustee, one by said board of directors, and a third by the two thus selected, and the person appointed trustee by a majority of the committee shall be and remain a trustee under this instrument. And the person regularly appointed a trustee to fill a vacancy in either of the forms above specified shall from and after his said appointment, and his acceptance of the appointment, become vested with the same estates, powers, rights and interests, and charged with the same duties and responsibilities, as if he had been one of the original trustees, parties of the

How vacancy in trustees is to be filled.

second part, named in and executing this instrument; and the prior remaining trustee may and shall execute such conveyances and instruments as may be proper or necessary to vest the same in such new trustee jointly with him, or to furnish evidence of such vesting. If at any time either of the said trustees shall resign his place as trustee by a proper deed in writing to that effect, and such resignation shall be accepted by the said party of the first part, then, and in every such case, the place of such resigning trustee thereupon shall become and be vacant.

Reconveyance by trustees upon payment of bonds and interest.

Whenever all the bonds which shall have been made and issued by the said party of the first part under and in conformity to the provisions of this indenture, with the interest thereon, together with all the expenses incurred by the said trustees in the execution of the trust herein and hereby created, shall have been fully paid and satisfied, the said trustees shall reconvey to the said party of the first part all and singular the said lands then in the hands of the said trustees, and not before that time sold or disposed of, in the execution of the trust hereby created. In case the said trustees shall at any time have any trust moneys on hand, received from the sale of the lands hereby conveyed, which will not be required to meet any immediate liabilities of the company, to which said moneys are by these presents devoted, the

said moneys shall be loaned on interest, or deposited on interest, with some bank or trust company in the city of San Francisco or Sacramento, subject to be drawn by checks signed by the trustees or such one of them as they may designate. All of the books of the said company, and of the trustees, relating to the lands hereby conveyed, shall be mutually open to the inspection of said company and said trustees. It shall be the duty of the said trustees to certify and deliver to the said party of the first part the said bonds, as the same from time to time shall be demanded, issued or used by the said party of the first part.

Deposit of surplus moneys by trustees.

And it is hereby mutually agreed by and between the parties hereto that the said parties of the second part, and their survivor and successors, and their heirs, executors and administrators, shall not be answerable for the acts, omissions or defaults of each other, nor for anything short of their own gross negligence or willful misfeasance.

Responsibility of trustees.

It is hereby declared by the parties to this indenture, that all the provisions of said acts of Congress, so far as they are applicable, are hereby made and shall be deemed and taken to be a part of this instrument; and the said provisions in all that concerns the sale and disposal of the said lands hereby conveyed to the parties of the second part are to be observed and strictly and faithfully carried out and fulfilled.

Provisions of acts of Congress to be observed.

And the said party of the first part covenants and agrees to and with the said parties of the second part, that the said party of the first part shall and will, at any and all times hereafter, and from time to time, execute, acknowledge, and deliver, under its corporate seal, to the said parties of the second part, and their survivors and successors, all such other or further assurances, deeds, mortgages, obligations, transfers, indentures and instruments in writing, and shall and will do and perform all such other or further acts or things as shall or may be necessary or proper, or as their counsel, learned in the law, shall deem necessary, proper, or expedient for the better or more effectually securing upon the above conveyed and mortgaged premises the payment of the said bonds so to be issued, and the interest due and to grow due thereon in manner aforesaid, or for carrying into effect the true intent, design, objects, and purposes of these presents. And the said parties of the second part hereby accept the trust created and declared by this instrument, and agree to discharge the same pursuant to the provisions in that behalf herein contained.

Will execute further instruments if necessary to secure payments of bonds.

In witness whereof, the said Southern Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal, and the above parties of the second part have

hereunto set their hands and seal, the day and year first above written.

[Corporate Seal
S. P. R. R. Co.]

CHARLES CROCKER,
President Southern Pacific Railroad Company.

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

We accept the trust declared in the foregoing instrument.

D. O. MILLS, [Seal]
LLOYD TEVIS, [Seal]
Trustees.

State of California,
City and County of San Francisco. } ss.

On this third (3rd) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torberi, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president of the Southern Pacific Railroad Company, and J. L. Willcutt, known to me to be the secretary of the Southern Pacific Railroad Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this third day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

I, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, residing in the city of San Francisco, duly commissioned and sworn, do certify that on the sixth (6th) day of July, in the year one thousand eight hundred and seventy-five (1875), personally appeared before me in the city and county of San Francisco, State of California aforesaid, Charles Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individuals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally, then and there, acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being by me duly sworn, did depose and say that he resides in the city and county of San Francisco, State of California; that he is and was secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and

was by him so affixed by order of the board of directors of the said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was and is acquainted with Charles Crocker, and knows that said Charles Crocker is and was president of the Southern Pacific Railroad Company at the date of said instrument; that the signature of the said Charles Crocker subscribed to said instrument is in the genuine handwriting of the said Charles Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, the sixth day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this seventh (7th) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared D. O. Mills and Lloyd Tevis, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, this seventh day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Filed for record at the request of D. W. Parkhurst, and recorded in office of the county recorder of San Mateo county, July 8, 1875, at 5 P. M., in Liber 11 of Mortgages, at page 2 and following.

Witness my hand and seal of office.

Paid, $22.50.

[Seal] GEO. H. RICE,
County Recorder.
By W. R. Thomas,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 9 o'clock and 26 minutes, A. M., and recorded in Book 15 of Mortgages, at page 156 et seq., Records of the County of Santa Clara, in the State of California.

Witness my hand and seal of office.

Paid, $15.

[Seal] W. J. COLAHAN,
County Recorder.
By F. J. Saxe,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 8 o'clock and 53 minutes, P. M., and recorded in Book 1 of Mortgages, at page 586 and following, Records of San Benito County, in the State of California.

Witness my hand and seal of office.

Fees, $15, paid.

[Seal] H. M. HAYES,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 10, A. D. 1875, at 8 o'clock and 10 minutes, P. M., and recorded in volume 17, page 529 and following pages of the Mortgage Records of the County of Santa Cruz, in the State of California.

Witness my hand and seal of said county recorder.

Paid, $15.00.

[Seal] H. E. MAKINNEY,
County Recorder in and for Santa Cruz County.

Filed for record at the request of D. W. Parkhurst, July 12, A. D. 1875, at 9 o'clock and 55 minutes, A. M., and recorded in Book 1 of Mortgages, page 183 and following, Records of the County of Monterey, in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] HERBERT MILLS,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 13, A. D. 1875, at six o'clock and 25 minutes, P. M., and recorded in Book "C" of Mortgages, page 540 et seq., Records of the County of San Luis Obispo, in the State of California.

Witness my hand and seal of office county recorder.

Fees, $15.

[Seal] CHAS. W. DANA,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 14, A. D. 1875, at 2 o'clock and 20 minutes, P. M., and recorded in Book "F" of Mortgages, pages 164 and following, Records of the County of Santa Barbara, in the State of California.

Witness my hand and seal of office of county recorder.

Fees, $15, pd.

[Seal] H. P. STONE,
County Recorder.
By J. O. B. Wentling,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 16, A. D. 1875, at 8 o'clock and 40 minutes A. M., and recorded in Book 15 of Mortgages, page 600 et seq., Records of the County of Los Angeles, in the State of California.

Witness my hand and seal of office county recorder.
Fees, $15, pd.

[Seal] J. W. GILLETTE,
County Recorder.
By D. S. Lovejoy,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 19, A. D. 1875, at nine o'clock and 15 minutes A. M., and recorded in Book Volume 2 of Mortgages, pages 217 and following, Records of the County of Kern in the State of California.

Witness my hand and seal of office.
Fees, $15, pd.

[Seal] F. W. CRAIG,
County Recorder.

Filed for record at the request of D. W. Parkhurst, Esq., July 20, A. D. 1875, at 8 o'clock and 15 minutes, P. M., and recorded in Book "D" of Mortgages, pp. 310 et seq., Records of the County of Fresno, in the State of California.

Witness my hand and seal of office of county recorder.
Pd. $15.

[Seal] A. M. CLARK,
County Recorder.
By C. L. Wainwright,
Deputy.

Filed for record at request of D. W. Parkhurst, July 21, A. D. 1875, at 10 o'clock and 30 minutes, A. M., and recorded in Book "K" of Mortgages, page 1 et seq., Records of the County of Tulare, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] J. E. DENNY,
Recorder.
By John G. Knox,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 23, A. D. 1875, at 10 o'clock and 40 minutes, P. M., and recorded in Book "D" of Mortgages, 544 et seq., Records of the County of San Bernardino, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] SYDNEY P. WAITE,
County Recorder.
By R. S. Swing,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 26, A. D. 1875, at 10 o'clock and 20 minutes, A. M., and recorded in Book No. 7 of Mortgages, pages 103 et seq., Records of the County of San Diego, in the State of California.

Witness my hand and seal of office of county recorder. Fees, $15.

[Seal]

A. S. GRANT,
County Recorder.
By E. G. Haight,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 28, A. D. 1875, at 24 minutes past 4 P. M., and recorded in Book No. 2 of Mortgages, pages 46 et seq., Records of the County of Ventura, State of California.

Witness my hand and seal of office of county recorder. Fees, $18.

[Seal]

JOHN T. STOW,
County Recorder.

Recorded at request of D. W. Parkhurst, August 3, A. D. 1875, at 1 P. M., in Liber 443 of Mortgages, page 309, in the office of the county recorder of the city and county of San Francisco, State of California.

O. H. FRANK,
County Recorder.

Recorded at request of Wells, Fargo & Co., August 20, 1880, at 20 min. past 9 A. M., in Book 1 of Mortgages, page 557 et seq., Records of Merced County.

$15.

[Seal]

E. J. HAMILTON,
County Recorder.
By M. H. Walsh,
Deputy.

Recorded at request of Wells, Fargo & Co., August 23d, A. D. 1880, at 5 min. past 9 o'clock A. M., in Vol. 15 of Mortgages, at pages 139 et seq., Records of Stanislaus County.

$15 paid.

[Seal] JOHN McCOY,
Recorder.

Recorded at request of J. L. Willcutt, September 6th, 1880, at 30 min. past 10 o'clock A. M., in Liber 624 of Mortgages, page 305, in the office of the county recorder of the city and county of San Francisco, State of California.

[Seal] W. K. DIETRICH,
County Recorder.
Per Richard Blauvelt,
Deputy.

(Marked "Defendants' Exhibit before the Special Examiner No. 90, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original exhibit, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Trust Mortgage. Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees. Dated April 1, 1875. Resignation of Lloyd Tevis, and ap-

pointment of Gerrit L. Lansing. Acceptance April 18, 1883. Defendants' Exhibit before the Special Examiner No. 90. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 56.

This indenture, made this 25th day of August, 1888, between the Southern Pacific Railroad Company, a railroad corporation duly organized and existing under the laws of the United States and of the State of California, party of the first part, the Southern Pacific Company, a corporation organized and existing under the laws of the State of Kentucky, and lessee of portions of the Southern Pacific Railroad, party of the second part, and the Central Trust Company of New York, a corporation created, organized and existing under the laws of the State of New York, party of the third part, witnesseth:

That whereas, the Southern Pacific Railroad Company, as it existed prior to the consolidation and amalgamation hereinafter set out, did, to secure the payment of its bonds in the sum of $46,000,000, heretofore, to wit, on the first day of April, 1875, make and execute its first mortgage on its entire line of railroad as then constituted, to wit, on the whole of its railroad and telegraph line running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley, and Polonio Pass, to the Colorado river at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line, between Poso creek and Kern river; also from the junc-

tion near Tehachapi Pass via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro bay, aggregating eleven hundred and fifty (1,150) miles of railroad and telegraph line, more or less, and on the several sections of land granted to said Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, as stated in said mortgage, saving, excepting, and reserving, however, all parts and parcels of said lands which had been sold or contracted to be sold or disposed of theretofore, or which were or should be included in the rights of way of said railroads and telegraph lines of said company as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

And whereas, subsequent thereto, by instrument in writing dated the fourth day of May, 1888, and pursuant to the laws of the State of California in such cases made and provided, the San Jose and Almaden Railroad Company, the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the Monterey Extension Railroad Company, the Southern Pacific Branch Railway Company, the San Pablo and Tulare Railroad Company, the San Pablo and Tulare Extension Railroad Company, the San Ramon Valley Railroad Company, the Stockton and Copperopolis Railroad Company, the Stockton and Tulare Railroad Company, the San Joaquin Valley and Yosemite Railroad Company, the Los Angeles and San Diego Railroad Company, the Los Angeles and Inde-

pendence Railroad Company, the Long Beach, Whittier and Los Angeles County Railroad Company, the Long Beach Railroad Company, the Southern Pacific Railroad Extension Company, and the Ramona and San Bernardino Railroad Company (railroad corporations organized and existing under the laws of the State of California) amalgamated and consolidated their capital stocks, debts, properties, assets, and franchises with the capital stock, debts, properties, assets, and franchises of the Southern Pacific Railroad Company of California.

And whereas, by force and effect of said amalgamation and consolidation, the said party of the first part has succeeded to all of the debts, properties, assets, and franchises of said several railroad companies, and now holds and owns the said several lines of railroad heretofore owned and held by them respectively, together with their respective properties, assets, and franchises.

And whereas, the said Pajaro and Santa Cruz Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of five hundred and thirty (530) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of January, 1885, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the first day of January, 1885, to S. T. Gage and E. B. Ryan, and covering its railroad, commencing at the town of Pajaro, in the county of Monterey, in the State of California, and extending thence to the city of Santa Cruz, in the county of Santa Cruz, in said State, with a branch line commencing at the town of

Aptos, in said county of Santa Cruz, and running thence in a northerly and northeasterly direction, following the meanders of Aptos creek to the point of confluence of said creek with the creek running from White's Lagoon, a distance of twenty-six miles, as near as may be, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Monterey Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two hundred and fifty (250) of its twenty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1880, bearing interest at the rate of five per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the ninth day of March, 1880, to Stephen T. Gage and E. B. Ryan, and covering the whole of the railroad line of said company, commencing at or near the town of Castroville, in the county of Monterey, in the State of California, and running through the county of Monterey to a point at or near the city of Monterey in said county, a distance of fifteen and four-tenths (15.4) miles, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Southern Pacific Branch Railway Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of nine thousand of its fifty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1887, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust

bearing date the twenty-fourth day of November, 1886, to William E. Brown and Gerrit L. Lansing, and covering the whole of the railroad line of the said company, commencing at a point near San Miguel, in the county of San Luis Obispo, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company, near Newhall, in said Los Angeles county, a distance of about two hundred and fifty miles, as near as may be, together with all the corporate rights pertaining to said road, its appurtenances, etc.

And whereas, the said San Pablo and Tulare Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of three thousand seven hundred and fifty (3,750) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1878, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of September, 1878, to Albert Gallatin and Charles Miller, and covering its line of railroad, constructed and unconstructed, running from a point at or near Martinez, in the county of Contra Costa, through the counties of Contra Costa, San Joaquin, Stanislaus, Merced, and Fresno, to a point at or near Los Gatos creek, a distance of one hundred and fifty (150) miles, as near as may be, with all rolling stock, appurtenances, etc.

And whereas, the said Los Angeles and San Diego Railroad Company, to aid in the construction of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two thousand eight hundred (2,800) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of July, 1880, with interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of December, 1880, to S. T. Gage and E. B. Ryan, and covering its railroad line constructed and unconstructed, from the city of Los Angeles, in a southerly direction, to the city of San Diego, in the southwestern part of the State of California, with all rolling stock, appurtenances, etc., a distance of 140 miles, as near as may be.

And whereas, there are now outstanding $530,000 of said Pajaro and Santa Cruz Railroad Company's bonds; $220,000 of said Monterey Railroad Company's bonds (the balance of $30,000 having been redeemed, canceled and retired); $3,145,000 of said Southern Pacific Branch Railway Company's bonds (the balance, $5,855,000, being unissued and in the hands of the party of the first part); $1,023,000 of said San Pablo and Tulare Railroad Company's bonds (the balance, $2,727,000, being unissued and in the hands of the party of the first part); and $556,000 of the said Los Angeles and San Diego Railroad Company's bonds (the balance, $2,244,000, being unissued and in the hands of the party of the first part).

And whereas, said mortgages and each of them are valid and subsisting liens upon the lines of railroad heretofore described, and now the property of the party of the first part.

And whereas, the owners of all the outstanding bonds heretofore issued as aforesaid by the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the San Pablo and Tulare Railroad Company, and the Los Angeles and San Diego Railroad Company are willing to surrender said bonds and permit the respective mortgages heretofore made to secure the payment thereof, and hereinbefore described, to be satisfied of record and canceled, and receive in lieu thereof new fifty-year five per cent bonds secured by this mortgage.

And whereas, the party of the first part desires and intends to redeem and take up said mortgage bonds issued by said constituent companies, to-wit, the outstanding mortgage bonds of the Pajaro and Santa Cruz Railroad Company in the sum of $530,000, the outstanding mortgage bonds of the Monterey Railroad Company in the sum of $220,000, the outstanding mortgage bonds of the San Pablo and Tulare Railroad Company in the sum of $1,023,000, and the outstanding mortgage bonds of the Los Angeles and San Diego Railroad Company in the sum of $556,000, and retire the same, and to destroy, cancel, and retire the unissued bonds of the San Pablo and Tulare Railroad Company in the sum of $2,727,000, and the unissued bonds of the Los Angeles and San Diego Railroad Company in the sum of $2,244,000 and cause said existing mortgages to be satisfied of record and canceled, and, as rapidly as the same can be done upon terms satisfactory to the party of the first part, to arrange for the redemption of the mortgage bonds issued by said Southern Pacific Branch Railway Company, and when arrangements have been made for the redemption of all of such bonds

to cause the same to be canceled, and the mortgage securing the same to be satisfied of record, and in lieu of said outstanding bonds to issue new fifty-year five per cent bonds secured by this mortgage, and said party of the first part desires and intends to pay off and discharge the floating debt incurred in the construction and completion of certain portions of its lines of railroad, and desires to complete the construction and equipment thereof, and to that end desires and intends to issue its bonds in an amount necessary to accomplish said objects and purposes, and to secure the payment thereof by mortgage upon certain of its constituent lines of railroad hereinafter more particularly described.

And whereas, heretofore, to wit, on the 21st day of August, 1888, the board of directors of said Southern Pacific Railroad Company, at a meeting of said board, at which all the members thereof were present, by a resolution to that effect, which was unanimously adopted, passed, and concurred in, did determine and direct that bonds of said company be prepared, executed, and issued in its name and under its corporate seal, and signed by its president and secretary, to bear date the first day of October, 1888, in the sum of one thousand dollars each, to the number of thirty-eight thousand, numbered from one to thirty-eight thousand, inclusive, payable to the Central Trust Company of New York, or to the bearer thereof, fifty years after date, with interest at the rate of five per cent per annum, payable semiannually, on the first days of April and October of each year ensuing its date, payable both principal and interest in United States gold coin in the city of New York.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further order and direct that said bonds should be drawn in substantially the following form, to wit:

$1,000. United States of America. $1,000.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bond.

The Southern Pacific Railroad Company (of California) acknowledges itself indebted to the Central Trust Company of New York, or to the bearer hereof, in the sum of one thousand dollars gold coin of the United States, which sum it promises to pay to the bearer hereof, or, if registered, to the registered holder hereof, fifty years after date, and it further promises that on presentation and surrender at or after maturity of the respective interest coupons hereunto annexed, it will pay to the person presenting the same, or, if this bond is registered and the interest coupons appertaining thereto canceled, it will pay to the registered holder hereof, interest on such principal sum at the rate of five per cent per annum, semiannually, on or after the first day of April and October of each year ensuing the date hereof, both principal and interest payable at the office or agency of the company in the city of New York, in United States gold coin.

This is one of the first mortgage bonds issued under and secured by the indenture of mortgage or deed of trust from this company to the Central Trust Company of New York, trustee, dated the twenty-fifth day of August, 1888.

None of said bonds are to be in anywise binding or obligatory unless authenticated by a certificate endorsed

thereon, signed by said trustee or its successor or successors in said trust.

This bond may, at any time, upon production thereof to said railroad company, and proper endorsement being made thereon, and either with or without the surrender to said railroad company for cancellation of all unpaid interest coupons appertaining thereto, be registered upon the books of the company in the name of the holder thereof, and thereupon its transferability by delivery will cease, and thereafter it can be transferred only by the registered holder or his attorney by transfer duly made upon said books.

In witness whereof, the said Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and this bond to be signed by its president and secretary, this first day of October, one thousand eight hundred and eighty-eight.

SOUTHERN PACIFIC RAILROAD COMPANY,

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that to each of said bonds there should be attached one hundred interest coupons, numbered respectively from one to one hundred, inclusive, substantially in the following form, to wit:

$25. (Coupon.) $25.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bond No. ——.

Interest coupon for twenty-five dollars, due ————, payable in the city of New York, in United States gold coin.

Coupon No. ——. ————,

Treasurer.

And that all such coupons should bear the impression of the engraved signature of the treasurer, which impression should be regarded and treated, in fact and in law, as equivalent to a manual signing by said officer.

And whereas, the said board of directors, at the meeting aforesaid, and in manner and form and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a mortgage upon certain of its constituent lines of railroad and telegraph and upon certain of its lands should be executed in its name and under its corporate seal, and be signed by its president and secretary, to the Central Trust Company of New York as trustee for the holders of said bonds; said mortgage to cover the railroad and telegraph line, rolling stock, stations, fixtures, and franchises held, owned, and possessed by it in the following constituent lines of railroad, all lying within the State of California:

First.—Running from Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—Running from Pajaro, in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Ap-

tos, in said Santa Cruz county, northerly and northeasterly, about five miles, being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—Running from a point at or near Castroville Station in Monterey county to a point at or near Monterey in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of the Carmel river—an estimated length of thirty-one and twelve-hundredths (31.12) miles.

Fourth.—Running from a point near San Miguel in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—Running from a point near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; running thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin division of the railroad of the party of the first part at or near Pampa, in the county of Kern, a distance of two hundred and sixty miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—Running from a point at or near Avon in Contra Costa county to a point on the Central Pacific Railroad at or near Pleasanton, in the county of Alameda, a distance of thirty-five (35) miles, more or less.

Seventh.—Running from a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare, to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with branches connecting with the Central Pacific Railroad to or near Modesto in Stanislaus county, a distance of sixteen (16) miles, more or less, to or near Merced, in Merced county, a distance of ten (10) miles, more or less, to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, with a branch to or near Tulare in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said lines and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—Running from Berenda Station, in Fresno county, to a point at or near Perry's Ranch in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—Running from a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through the counties of Los Angeles and San Diego, to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—Running from a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—Running from a point at or near Long Beach, in Los Angeles county, to Whittier, thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part, between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—Running from a point at or near Long Beach Junction, in Los Angeles county, to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos, in said county—a distance of four (4) miles, more or less.

Thirteenth.—Running from a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands—all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—Running from a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—Running from the city of San Francisco, in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to Yuma, in the county of San Diego; and also from Los Angeles to Wilmington on San Pedro bay—aggregating nine hundred and eight miles of railroad and telegraph line, or thereabouts.

And also to cover the lands granted to the Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, above referred to, not sold or contracted to be sold or disposed of prior to the execution of this mortgage, or included in the right of way of the railroads and telegraph lines of the said company, or used or to be used for the construction or operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

And whereas, said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds by setting apart the sum of twenty thousand dollars of the net income derived by said company from the constituent lines of railroad herein mortgaged in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested, under the order and direction of said board

of directors, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as the board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids to be accepted, and bonds redeemed to the extent of the money in the sinking fund.

And whereas, the Southern Pacific Company, party of the second part herein, and lessee of certain portions of the railroads of the party of the first part affected by this mortgage, has been in writing notified and informed of this mortgage and has, in writing, by order of its board of directors, given its consent thereto, and as an evidence of such consent has become a party hereto:

Now, therefore, this indenture witnesseth, that the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the sum of one dollar to the said party of the first part in hand paid by the party of the third part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed, and confirmed and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm, unto the said party of the third part, as trustee, and to its successors and assigns forever, the following property, now and hereafter constructed, purchased, acquired, held in possession, and owned by said party of the first part, to wit:

Its constituent lines of railroad lying within the State of California, and running:

First.—From Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—From Pajaro in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Aptos, in said Santa Cruz county, northerly and northeasterly, about five (5) miles—being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—From a point at or near Castroville Station, in Monterey county, to a point at or near Monterey, in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of Carmel river—an estimated length of thirty-one and twelve hundredths (31.12) miles.

Fourth.—From a point near San Miguel, in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—From a point at or near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin Division of the railroad of the party of the first part, at or near Pampa, in the

county of Kern, a distance of two hundred and sixty (260) miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—From a point at or near Avon, in Contra Costa county, to a point on the Central Pacific Railroad, at or near Pleasanton, in the county of Alameda, a distance of thirty-five miles, more or less.

Seventh.—From a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with a branch connecting with the main line of the Central Pacific Railroad to or near Modesto, in Stanislaus county, a distance of sixteen (16) miles, more or less, a branch to or near Merced, in Merced county, a distance of ten (10) miles, more or less, a branch to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Tulare, in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—From Berenda Station, in Fresno county, to a point at or near Perry's ranch, in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—From a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through

the counties of Los Angeles and San Diego to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—From a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—From a point at or near Long Beach, in Los Angeles county, to Whittier; thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—From a point at or near Long Beach Junction in Los Angeles county to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos in said county—a distance of four (4) miles, more or less.

Thirteenth.—From a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands —all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—From a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—From the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to Yuma, in the county of San Diego; also from Los Angeles to Wilmington on San Pedro bay, aggregating nine hundred and eight (908) miles of railroad and telegraph line, or thereabouts.

Including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering places, sidetracks, turnouts, turntables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, equipments, fixtures, tools, telegraph lines, and all other property which may now or hereafter be acquired for the purpose of operating the constituent lines of railroad hereby mortgaged, including all of the said property which now is or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to that portion of the said lines of railroad hereby mortgaged, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues, and prof-

its thereof, with all the rights, titles, interest, estate, property, succession, claim, and demand, in law or equity, of the said party of the first part, of, in, and to the same, or any part or parcel thereof.

Also, all and singular the several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever, at law or in equity, of, in, or to the same, or any part or parcel thereof, which said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, own, or be or become entitled to, by force or virtue of the said acts of Congress, saving, excepting, and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction and operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

To have and to hold the above granted and described premises, property, and franchises, with the appurtenances, unto the said party of the third part, and to its successors duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies politic or corporate, who shall have become or be from time to time holders of the said first mortgage bonds secured hereby, or any of them.

Provided always, and these presents are upon the express condition, that if the said party of the first part, or its successors, shall well and truly pay or cause or pro-

cure to be paid unto the holders, from time to time, of said bonds and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner, set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and the property, estate, rights, franchises, and privileges herein and hereby granted and conveyed shall cease, determine, and be void.

Until default shall be made by the said party of the first part, its successors and assigns, in the payment of the principal or interest of the said bonds, or some of them or some part thereof as hereinafter provided, the said party of the first part, its successors and assigns, shall be suffered and permitted to possess and enjoy the said premises, with their appurtenances, and all and singular the rights and franchises hereinbefore described, and to receive, take, and use the tolls, income, earnings, and profits thereof, and the trustee or trustees hereunder shall have full power in its or their discretion, upon written request of the party of the first part, its successors or assigns, to convey by way of release or otherwise, and fully release from the lien of this mortgage, any lands or other property of any description (except only the lands granted by acts of Congress, as hereinbefore prescribed) which in its or their judgment shall not be necessary for or for use in connection with the said railroads, and to consent to such changes in the location of tracks, depots, and other buildings as in its or their judgment may be expedient, and to make and deliver the releases and conveyances necessary to carry the same into effect, but any

lands or other property which may be acquired for permanent use in substitution for any so released or conveyed shall thereupon become subject to the lien of this mortgage, and upon request of the trustee or trustees hereunder shall be conveyed to it or them by the party of the first part, its successors or assigns, upon the trusts of these presents.

But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid according to the terms of said bonds, then the said party of the third part, or its successor in said trust, by itself or its agents or servants in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds then outstanding, on which the interest or principal shall be and have so remained in default as aforesaid, enter into and upon and take possession of all, or in its or their discretion any part of, the said constituent lines of railroad hereby mortgaged, and work and operate the said constituent lines of railroad, and receive the income, receipts, and profits thereof and out of the same pay:

First, the expense of running and operating the same, including therein reasonable counsel fees and such reasonable compensation as it may allow to the several persons employed or engaged in the running and superintendence of the same.

Second, the expense of keeping the said roads, the appurtenances, the locomotives, and the rolling stock

thereof in good and sufficient repair to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof.

And third, pay, as far as the same will suffice, all interest and principal, if any, which may be due on said bonds, and in case of any deficiency apply the said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind.

Or the said party of the third part may, in case of default as aforesaid, and upon request as aforesaid, foreclose this mortgage, and sell and dispose of according to law, all of the constituent lines of railroad hereby mortgaged, together with all of the rights, property, privileges, franchises, real and personal, connected therewith or pertaining thereto, that are subject to this mortgage, with the appurtenances herein and hereby granted, or so much as may be necessary, and out of the money arising from such sale, pay:

First, the cost and charges and expenses of the foreclosure and sale.

Second, any expenses, costs and charges of the execution of the trust, previously incurred and remaining unpaid.

And third, distribute the residue of said proceeds among the holders of said bonds and coupons in proportion to their several interests until all have been paid in full, principal and accrued interest.

If any default shall be made in the payment of interest on any of said bonds for six months after demand at the

place of payment, when the same shall become due, then the said trustee may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and take possession of any of the lands above conveyed, and foreclose this mortgage thereon, and may sell at public auction upon like notice as hereinafter prescribed so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the cost, charges, and expenses of such entry, foreclosure, and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and thereupon or upon default in the payment of the principal of such bonds at their maturity, the said trustee may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage thereon, and sell at public auction all said lands, or so much thereof as may be necessary, first giving at least six months' previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles, and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges, and expenses of such last-mentioned entry, foreclosure, and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part.

In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute, and deliver a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any foreclosure proceedings shall be commenced, for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustee, and pay all the costs, charges, and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustee shall discontinue its proceedings thereon, and restore to said party of the first part all of such lands, to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms, and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced.

All lands granted or conveyed under the acts of Congress hereinbefore referred to and in anywise covered or affected by the provisions hereof shall be subject to the express provision that if, and so long as the bonds issued under and secured by the said indenture of mortgage to D. O. Mills and Lloyd Tevis, dated April 1, 1875, or any thereof shall remain outstanding, any and all sales made in the manner in said last-mentioned indenture of mortgage prescribed shall absolutely and forever release the

said lands from any and all lien or encumbrance of, under, or in respect of this mortgage or the bonds issued thereunder; and if and when all the bonds issued under said indenture of mortgage of April 1, 1875, shall have been fully satisfied and discharged and the lien of such last-mentioned indenture of mortgage upon such lands fully released, then the said lands, so far as they remain unsold at that time, shall be subject to the like provisions in respect to sale and conveyance, and release from the lien of this mortgage, as are in said mortgage of April 1, 1875, prescribed in respect to sale, and conveyance, and release from the lien thereof.

This indenture further witnesseth, that said party of the first part hereby agrees and covenants to and with said party of the third part that it will create a sinking fund for the redemption and payment of said bonds, by setting apart the sum of twenty thousand dollars of the net income derived by it from the constituent lines of railroad herein mortgaged, in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested under the order and direction of the board of directors of the party of the first part, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as said board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids

to be accepted and bonds redeemed to the extent of the money in the sinking fund.

And this indenture further witnesseth, that the said party of the first part hereby agrees and covenants to and with the said party of the third part, and its successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be legally imposed upon the property herein described and hereby mortgaged and every part thereof, and the said party of the third part, or its successors in said trust, or any one or more of the holders of said bonds, may, in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon prior to these presents, or to which this mortgage may be subject or subordinate, and, for all payments thus made, the parties so making the same shall be allowed interest thereon at the rate of six per cent per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money wherein they shall have been paid, and the same shall be payable by said party of the first part to said party of the third part, upon demand, in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

And this indenture further witnesseth, that the said party of the first part further covenants and agrees to

and with the said party of the third part, and its successors in said trust, that it will at any and all times hereafter, upon the request of the said party of the third part, execute, acknowledge, and deliver to the said party of the third part and its successors in said trust all and every such further necessary and reasonable conveyances and assurances of the said premises, or any part thereof, as may by the party of the third part or its successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance.

And the said party of the third part and its successors in said trust shall be entitled to receive a just and proper compensation for all services rendered by it or them in the discharge of said trust, and the same shall be deemed to be secured hereby. And it is hereby stipulated and agreed that the said party of the third part and its successors in said trust shall not be responsible for the acts or omissions of any agent or agents employed by it or them in any manner in and about the execution of the trust hereby created, when such agent or agents are selected with reasonable discretion, or with the approbation or with the knowledge and without the express disapprobation of said party of the first part.

This indenture further witnesseth, that should the said party of the third part for any reason fail, refuse, or become incompetent to discharge the duties or trusts herein conveyed to, imposed on, and accepted by it, then and in that event the board of directors of the party of the first part shall nominate and appoint a successor or successors to said party of the third part, which said suc-

cessor or successors shall be vested with the same properties, and clothed with the same powers, rights, and duties, and be subject to the same obligations, as the said party of the third part named herein, as fully as though he, they, or it had been named herein as such trustee or trustees.

And this indenture further witnesseth, that the party of the first part hereby agrees to take up, pay off, discharge, and retire the outstanding bonds of the Pajaro and Santa Cruz Railroad Company in the sum of five hundred and thirty thousand dollars ($530,000), the outstanding bonds of the Monterey Railroad Company in the sum of two hundred and twenty thousand dollars ($220,000), the outstanding bonds of the San Pablo and Tulare Railroad Company in the sum of one million and twenty-three thousand ($1,023,000) dollars, and the outstanding bonds of the Los Angeles and San Diego Railroad Company in the sum of five hundred and fifty-six thousand ($556,000) dollars, and to destroy, cancel, and retire all of said bonds unissued and in its hands, and cause said existing mortgages to be satisfied of record and canceled, and to take up said outstanding bonds with the new fifty-year five per cent bonds to be issued under this mortgage, upon such terms as may be agreed upon, said redemption and cancellation and satisfaction to be made without unnecessary delay.

It is further provided, covenanted, declared, and agreed that the party of the third part and its successors in the trust hereby created is and are from time to time to authenticate and certify as issued hereunder, and de-

liver to the party of the first part, its successors or assigns, first mortgage bonds in the form or substantially the form above prescribed, to amounts which shall aggregate, but shall not exceed, twenty-two thousand five hundred dollars par value of such bonds per mile for each mile of road constructed or acquired by the said party of the first part, its successors or assigns, and described in the foregoing thirteen subdivisions hereof, designated from "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, and for twenty-five miles in addition thereto, and to further amounts not exceeding seven thousand five hundred dollars per mile, additional thereto, for expenses and disbursements incurred in and about double tracking, masonry, iron bridges, rolling stock, or other betterments or improvements either to the permanent way, local or terminal facilities, or rolling stock. The said party of the third part, and its successors in the trust hereby created, is and are also from time to time to authenticate and certify as issued hereunder, and deliver to the party of the first part, its successors and assigns, additional first mortgage bonds in the form or substantially the form above prescribed, to the amounts to which bonds of the Southern Pacific Branch Railway Company issued or to be issued under and secured by the mortgage of November 24, 1886, hereinbefore referred to, shall have been deposited with the trustee hereunder.

All bonds so deposited with the trustee hereunder shall be held as collateral security for the bonds issued under this mortgage until all of the bonds issued under

and secured by such mortgage of the Southern Pacific Branch Railway Company shall have been so deposited, whereupon such deposited bonds shall be canceled and the mortgage securing the same shall be satisfied of record. While such Southern Pacific Branch Railway Company's bonds remain so on deposit with the trustee, neither such bonds nor the coupons appertaining thereto shall be required to be paid unless proceedings shall be taken for the foreclosure of the mortgage securing the same, in which case all the bonds and coupons which shall have been so deposited with the trustee shall be entitled to share for the benefit of the bonds issued under this mortgage, on equal terms with the other bonds issued under and secured by said Southern Pacific Branch Railway Company mortgage.

When said Southern Pacific Branch Railway Company mortgage shall have been satisfied of record, the party of the first part, its successors and assigns, shall be entitled from time to time to receive from the trustee hereunder, duly authenticated as issued under and secured by this mortgage, bonds in respect of the line described in the foregoing subdivision "Fourth" hereof, on the mileage basis of $22,500 and $7,500, as above prescribed, in respect of the lines described in subdivisions "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, due allowance being made on the basis of $30,000 per mile for the bonds theretofore issued against deposit of said Southern Pacific Branch Line bonds.

Authenticating certificates to such bonds are to be

signed, and deliveries thereof to be made, by the trustee under this mortgage from time to time upon presentation to it of certificates, in writing, executed by the president and chief engineer of the party of the first part, or its successors, reciting the facts authorizing delivery of such bonds hereunder, and without other evidence or proof of such facts; provided, however, that, notwithstanding anything herein contained, the party of the first part, or its successors, may at any time or from time to time, require the party of the third part or its successors to authenticate and certify hereunder and deliver to said party of the first part, its successors or assigns, and permit the sale of such amount or amounts of such bonds as the party of the first part or its successors may think fit; provided, that the proceeds of any such bonds issued in excess of the limits hereinabove prescribed shall be received by the trustee or trustees hereunder, and not by the party of the first part or its successors or appointees, and shall be disbursed by said trustee or trustees only pro rata as and when the party of the first part or its successors would have been entitled to receive such bonds under the foregoing provisions hereof; and provided, further that the total amount of bonds issued under or secured by this deed of trust is not in any event to exceed for all purposes herein mentioned the aggregate sum of thirty-eight million dollars.

In witness whereof, the said Southern Pacific Railroad Company, the party of the first part, has caused these

presents to be signed in its name by its president, and attested by its secretary, and sealed with its corporate seal.

SOUTHERN PACIFIC RAILROAD COMPANY,
By CHAS. F. CROCKER,
President.

Attest:
[Seal] J. L. WILLCUTT,
Secretary.

The Southern Pacific Company, party of the second part, the lessee of portions of the said Southern Pacific Railroad affected by the foregoing instrument, does hereby consent thereto, and hereby waives any and all objection it might or could have to the execution thereof, or to the issuance of the bonds therein provided for; provided that nothing in this consent or assent contained shall be construed as a grant of any of the property rights of said Southern Pacific Company, or of its franchises, to the mortgagee or trustee named herein.

In testimony whereof, said Southern Pacific Company has caused these presents to be signed in its name by its third vice-president and attested by its secretary, and its corporate seal to be hereunto affixed, this 25th day of August, 1888.

SOUTHERN PACIFIC COMPANY,
By CHAS. F. CROCKER,
Third Vice-President.

Attest:
[Seal] G. L. LANSING,
Secretary.

The Central Trust Company of New York, party of the third part to the foregoing mortgage or deed of trust, hereby accepts the trust created and declared in and by the foregoing instrument, and agrees to discharge the same pursuant to the provisions in that behalf therein contained.

In testimony whereof, said Central Trust Company of New York has caused these presents to be signed in its name by its second vice-president, and attested by its assistant secretary, and its corporate seal to be hereunto affixed, this seventh day of September, 1888.

CENTRAL TRUST COMPANY OF NEW YORK,

By E. FRANCIS HYDE,

Second Vice-President.

Attest:

[Seal] B. G. MITCHELL,

Asst. Secretary.

State of California,
City and County of San Francisco. } ss.

I, J. F. Kingwell, a notary public in and for the city and county of San Francisco, State of California, residing in said city and county, duly commissioned and sworn, do certify that on the 25th day of August, A. D. 1888, personally appeared before me, in said city and county, Charles F. Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individ-

uals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally then and there acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being duly sworn, did depose and say: That he resides in the city of Oakland, county of Alameda, and State of California; that he is and was the secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of execution of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and was by him so affixed by order of the board of directors of said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was acquainted with Charles F. Crocker, and knows that said Charles F. Crocker is and was president of the Southern Pacific Railroad Company at the date and execution of said instrument; that the signature of the said Charles F. Crocker subscribed to said instrument is in the genuine handwriting of the said Charles F. Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] J. F. KINGWELL,
Notary Public in and for the City and County of San Francisco, California.

State of California,
City and County of San Francisco. } ss.

On this twenty-fifth (25) day of August, in the year one thousand eight hundred and eighty-eight (1888), before me, J. F. Kingwell, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Chas. F. Crocker, known to me to be the 3rd vice-president of the Southern Pacific Company, and G. L. Lansing, known to me to be the secretary of the Southern Pacific Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 25th day of August, A. D. 1888.

[Seal] J. F. KINGWELL,
Notary Public in and for the City and County of San Francisco, State of California.

State of New York,
City and County of New York. } ss.

On this 7th day of September, in the year 1888, before me, Charles Edgar Mills, a commissioner of the State of California, in and for the State of New York, residing in said city of New York, personally appeared E. Francis Hyde and Benjamin G. Mitchell, known to me to be the second vice-president and assistant secretary of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this 7th day of September, A. D. 1888.

[Seal] CHARLES EDGAR MILLS,
Commissioner for California in New York, 115 and 117 Broadway, N. Y. City.

[Endorsed]: Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Deed of trust. Dated August 25, 1888.

Recorded at the request of H. D. La Motte, Oct. 2nd, A. D. 1888, at 30 minutes past 4 P. M., in liber No. 21 of Mortgages, page 10, Records of San Mateo Co., Cal.

E. EIKERENKOTTER,
Recorder.
By Claude Fox.
Deputy Recorder.

Recorded at request of H. D. La Motte, in Book 84 of Mortgages, page 319 et seq., Oct. 3d, 1888, at 14 min. past 9 o'clock A. M., Records of Santa Clara Co., Cal.

Pd. $19.

CHAS. P. OWEN,
County Recorder.

Filed for record at the request of H. D. La Motte, Oct. 3, A. D. 1888, at 1 o'clock P. M., and recorded in Vol. 1 of Trust Deeds, page 123, San Benito County Records.

Pd. $19.

R. SHAW,
Recorder.
By Robt. Shaw,
Deputy Recorder.

Filed for record at the request of H. D. La Motte, Oct. 4, A. D. 1888, at 9 o'clock A. M., and recorded in Vol. 54 of Mortgages, page 83, Oct. 4, 1888, Santa Cruz County Records.

Paid, $19.

ED. MARTIN,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 4th, 1888, at —— minutes past 2 P. M., in Record A of Trust Deeds, page 409, Monterey County, Cal.

Recorder's fees, $19.

DAVID WALLACE,
County Recorder.

Recorded at request of H. D. La Motte, Oct. 6, 1888, at 30 minutes past 8 o'clock A. M., in Book "P" of Mortgages, at page 513 et seq., San Luis Obispo County Records.

$18.50.

[Seal]

F. E. DARKE,
Recorder.
By F. E. Darke, Jr.,
Deputy.

Recorded at request of H. D. La Motte, at 25 min. past 10 A. M., Oct. 8, 1888, in Book W of Mortgages, page No. 1, Records of Santa Barbara County, Cal.

Pd. $18.50.

C. A. STUART,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 9th, A. D. 1888, at 8 min. past 9 o'clock A. M., in Book 11 of Mortgages, page 56, Records of Ventura Co., Cal.

$16.75, pd.

L. F. EASTIN,
County Recorder.
By Fred. Hund,
Deputy Recorder.

Recorded at request of H. D. La Motte, Oct. 10, 1888, at 48 min. past 8 A. M., in Book 179, page 74 of Mortgages, Los Angeles County Records.

Fees, $12.90.

FRANK A. GIBSON,
County Recorder.
By Arthur Bray,
Deputy.

Recorded at request of H. D. La Motte, Oct. 11, 1888, at 8 min. past 8 A. M., in Book 11 of Mortgages, page 129, Records San Bernardino County.

$18.50, paid.

LEGARE ALLEN,
County Recorder.
By Gordon G. Ives,
Deputy Recorder.

Received for record Oct. 12, 1888, at 9 o'clock A. M., at request of H. D. La Motte, and recorded in Book No. 43 of Mortgages, page 1 et seq., San Diego Co., Cal.

Fees.....$23.50, pd.
Comparing. 3

26.50, pd.

E. G. HAIGHT,
County Recorder.
By B. F. Moore,
Deputy.

Recorded at request of H. D. La Motte, Oct. 13th, 1888, at 25 min. past 9 o'clock A. M., in Book 8 of Mortgages, page 376, Records of Kern County.

Fees, $20.00, paid.

N. R. PACKARD,
County Recorder.
By F. A. Shedd,
Deputy.

Recorded at request of H. D. La Motte, at 43 min. past 7 A. M., October 15th, 1888, in Vol. 4 of Trust Deeds, page 446 et seq., Records of Tulare County, Cal.

Fees, $20.00, pd.

W. F. THOMAS,
County Recorder.

Recorded at request of H. D. La Motte, at 45 min. past 1 P. M., Oct. 15th, 1888, in Vol. 86 of Deeds of Fresno County Records, pp. 195 et seq.

$20.

C. L. WAINWRIGHT,
Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 40 min. past 8 A. M., in Book "P" of Mortgages, page 106, Records of Merced County.

$20.00, paid.

J. G. ELLIOTT,
County Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 25 min. past 1 P. M., in Liber 35, Deeds of Trust, page 65, Records of Stanislaus County.

Fee, $10.50.

C. S. ABBOTT,
County Recorder.
By E. E. Howard,
Deputy.

Recorded at the request of H. D. La Motte, October 17th, 1888, at 40 minutes past 12 o'clock M., in Book "N" of Mortgages, page ——, Calaveras County Records.

$20.00.

A. L. WYLLIE,
Recorder,
By Edw. Casey,
Deputy.

Recorded at request of H. D. La Motte, October 18th, 1888, at 35 min. past 10 o'clock A. M., in Book "A," Vol. 64, page 458 of Deeds, San Joaquin County Records.

$20.00, paid.

[Seal]

J. F. MOSELEY,
County Recorder.
By G. E. Housken,
Deputy.

Recorded at request of H. D. La Motte, October 18th, A. D. 1888, at 30 min. past 4 P. M., in Vol. 54 of Deeds, page 267, Records of Contra Costa County.

$17.50, pd.

C. S. COUSINS,
County Recorder.
By A. E. Dunkel,
Deputy Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 24, 1888, at 45 min. past 9 o'clock A. M., in Liber 1320 of Deeds, page 85.

A. T. SPOTTS,
County Recorder.
By C. H. McCourtney,
Deputy.

Recorded Oct. 26th, 1888, at 46 min. past 3 P. M., in Liber 302 of Mortgages, page 1, Records of Alameda County.

F. D. HINDS,
County Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 27th, 1888, at 25 min. past 10 o'clock A. M., in Liber 890 of Mtgs., page 283.

A. T. SPOTTS,
County Recorder.

State of California,
City and County of San Francisco. } ss.

I, Alexander Russell, county recorder, do hereby certify that the annexed is a whole, true, and correct copy of an original record, as will appear by reference to book 1320 of Deeds, page 85 (and 890 Mtges, 283), now in my office, and that said copy has been compared with the original and is a correct transcript therefrom.

Witness my hand and official seal this sixth day of March, A. D. 1889.

(Signed) ALEXANDER RUSSELL,
County Recorder.
Per M. Warschauer,
Deputy.

[Seal Recorder's Office, City and County of San Francisco, Cal.]

(Marked "Defendants Exhibit before the Special Examiner No. 91, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original exhibit, and find it to be a full, true and correct copy thereof.

San Francisco, October 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Deed of trust. Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Dated August 25, 1888. Defendants' Exhibit before the Special Examiner No. 91. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 57.

In the Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Complainants,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 184.

Testimony.

New York, November 1, 1893.

Appearances:

Joseph H. Call, Esq., for Complainant.

Joseph D. Redding Esq., for Defendants; and

Patrick A. Nolan, Esq., Notary Public.

Mr. Nolan: Pursuant to a notice, of which the following is a copy:

Please take notice that the defendants herein will take the testimony of F. A. Fogg, J. Blickensderfer, Jr., E. N. Robinson, Morris Speyer, C. P. Huntington, I. E. Gates, J. A. Williamson, and others, each and all of whom reside and live more than one hundred (100) miles from the place of trial herein, and more than one hundred (100) miles from any place at which the Circuit Court of the

United States, for the Ninth Circuit, Southern District of California is appointed to be held by law, at the final hearing for the use on behalf of the defendants before Patrick A. Nolan, a notary public in and for the city and county of New York, State of New York, who is not attorney nor of counsel, nor interested in this case, at the office of Charles H. Tweed, Esq., 7th floor, Mills Building, New York, in the said city of New York, and State of New York, November 1, 1893, at 11 o'clock A. M., and thereafter, from day to day, as the taking of the depositions may be adjourned, and such testimony will be so taken in accordance with the provisions of section 863, 864, and 865 of the Revised Statutes of the United States and the equity rules.

Dated San Francisco, October ——, 1893.

———————,

Solicitor for Defendants, No. 35 Chronicle Building, San Francisco, Cal.

To GEORGE J. DENIS, Esq., United States Attorney and Solicitor for the Complainant in the above entitled action; and

To JOSEPH CALL, Esq., Special United States Attorney and Solicitor for Complainant and of Counsel.

[Endorsed]:

Received a copy of within notice, October 7, 1893, at San Francisco, Cal., but not admitting any right to take testimony of said witnesses as mentioned, nor in manner mentioned.

JOSEPH H. CALL,

Spl. Asst. U. S. Atty., Southern District of California.

There now appear before me on this, the first day of November, A. D. 1893, in the city and county of New York, State of New York, Mr. Joseph H. Call, representing the complainant in the above-entitled action, and Mr. Joseph D. Redding, representing the defendants in the above-entitled action, for the purpose of taking testimony on behalf of the defendants, and in pursuance of the said notice.

Thereupon the following proceedings were taken and had before me, Patrick A. Nolan, notary public in and for the city, county, and State of New York.

Mr. REDDING.—Mr. Call, is it agreeable to you that Mr. Nolan shall employ a stenographer, who shall reduce the questions and answers to writing, on behalf of the notary, Mr. Nolan, which questions and answers, when so reduced to writing and signed by the witness, will have the same force and effect as if reduced to writing by the notary himself in the presence of the witness? And I would further state that, if satisfactory to you, Mr. Call, and until you make objections to the party chosen, I am agreeable that Mr. C. H. Aron may act as the stenographer for the notary, but if you wish another stenographer I am perfectly agreeable that any one that you deem sufficient, provided he be competent, shall be used by the notary in taking and transcribing the testimony.

Mr. CALL.—Without waiving any objections to the jurisdiction of Mr. Patrick A. Nolan to take testimony in this case, I will state that I have no objection to Mr. Aron taking the testimony as stenographer, with the same effect as if it had been personally reduced to writ-

ing by Mr. Nolan, subject to the stipulation that, upon objection being made by counsel for either party, another stenographer may be selected by the parties.

Mr. REDDING.—Mr. Nolan, are you a notary public for the city and county and State of New York?

Mr. NOLAN.—Yes, sir.

Mr. REDDING.—By whom appointed?

Mr. NOLAN.—By the Governor.

Mr. REDDING.—Mr. Call, will you admit that Mr. Patrick A. Nolan is a duly appointed, and now acting under authority, notary public in and for the city and county of New York, State of New York?

Mr. CALL.—Yes.

Mr. REDDING.—Mr. Call, I desire to give notice that I will take the testimony of Mr. William Salomon, one of the members of the firm of Messrs. Speyer & Company; that I will take his testimony on behalf of the defendants before Mr. Nolan, notary public, in the Mills Building, New York, on Thursday, the 2d day of November, 1893, at three P. M. I would further state that to-day, being the 1st of the month and a day of great financial rush and importance in the city of New York, the several witnesses that I have named in my notice, whose testimony we were to commence taking to-day I find impossible to be present without great embarrassment on their part, and consequently I will ask that the taking of the testimony be adjourned by the notary until to-morrow at three P. M.

Mr. CALL.—I will meet you here at three o'clock to-morrow.

Adjourned, accordingly, to to-morrow, Thursday, November 2, 1893, at three o'clock P. M.

New York, November 2, 1893.

Met pursuant to adjournment.

Present: Counsel as before.

Adjourned at the request and on account of the illness of Mr. Call, to to-morrow, November 3, 1893, at three o'clock P. M.

Testimony of defendants resumed, November 3, 1893.

Present:

Mr. Call, representing the Complainant.

Mr. Redding, representing the Defendants; and

Mr. P. A. Nolan, Notary.

WILLIAM SALOMON, Esq., a witness called on behalf of the defendants, being duly sworn by the notary, in accordance with the provisions of the sections of the Revised Statutes of the United States appertaining thereto, testifies as follows:

By Mr. REDDING. Q. 1. What is your name, Mr. Salomon? A. William Salomon.

Q. 2. And what is your occupation?

A. Banking.

Q. 3. With what firm are you connected?

A. Speyer & Company.

Q. 4. How long have you been connected with the firm of Speyer & Company?

A. About twenty-five years.

Q. 5. Will you state, in general, what the nature of the business is that is transacted by that firm and by yourself in connection with it?

A. It is in large part the purchase of railroad and other loans, with a view of selling those loans—as a rule, under what is called a prospectus, with the name of the firm attached to it.

Q. 6. Do you deal with the general public in the loans and business you have mentioned?

A. We deal with the general public in the countries where we make, either directly or indirectly, the so-called issues, under prospectus, of bonds. We sell our bonds to anybody—whether known to us or unknown to us—who, on reading our prospectus or hearing of the issues, may chose to buy the securities which we offer.

Q. 7. Will you state what countries you transact business in?

A. The partners in the firm of Speyer & Company, excepting two, resident in this city, are partners in a firm in London, England, and in a firm in Frankfort-on-the-Main, Germany. They are also pecuniarily interested in a firm in Amsterdam, Holland, and the issues of bonds bought by Speyer & Company are generally made in one, two, three or four of the cities in question.

Q. 8. Those cities include New York and other portions of the United States?

A. They include New York; they are New York, London, Frankfort, Amsterdam (Holland). In connection with the issues which are made in those places by our

own partners, practically also issues are made in other cities of this country as well as Europe.

Q. 9. As a member of the firm of Speyer & Company, are you familiar with the trust mortgage of the Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees, dated April 1, 1875?

Mr. CALL.—Objected to as incompetent, immaterial, and irrelevant, and not the best evidence in the matter sought to be adduced. And, Mr. Redding, I will ask you to make the usual stipulation, that where objections are made to any question propounded to any witness during this examination before Mr. Nolan, the stenographer shall repeat the words "Same objection" to all subsequent questions until another objection shall be made, with the same effect as if such objection were set out in full; and so on from time to time as each objection shall be made, with the same effect as if the objection were set out in full.

Mr. REDDING.—I am perfectly agreeable that the words "Same objection," when inserted by the stenographer, shall include the last stated objection by the counsel, and have the same force and effect as if the last stated objection were repeated in full.

Mr. CALL.—Do you desire me to repeat the objection or allow the stenographer to do it as stated.

Mr. REDDING.—I say, without the necessity of having the objection repeated in full, I am willing that the words "Same objection" shall be equivalent to a complete reiteration of the objection in detail.

Mr. CALL.—I will state now to the stenographer that

wherever I object to any question, I desire to have him repeat the objection by stating "Same objection" until otherwise directed, in each instance.

Mr. REDDING.—Very well.

(Question 9 repeated.)

A. I am.

Q. 10. Are you a member of the firm of Speyer & Company?

(Same objection.)

A. Yes, sir.

Q. 11. Did the firm of Speyer & Company negotiate a sale of bonds of the Southern Pacific Railroad Company, under the trust mortgage referred to?

(Same objection.)

A. The firm of Speyer & Company issued a prospectus in respect to a portion of the bonds issued under the mortgage referred to.

Q. 12. Have you a copy of that prospectus with you?

(Same objection.)

A. I have not a copy with me here on my person. I have a copy in the office. This is one of the prospectuses of that issue. (Referring to paper handed to witness by counsel for defendants.)

Mr. REDDING.—The defendants offer in evidence prospectus issued by Messrs. Speyer & Company, of New York, in reference to the issue of a certain amount of the six per cent bonds mentioned in the trust mortgage of the Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees, dated April 1, 1875, which trust mortgage has heretofore been introduced in evidence in

this case, and ask that this exhibit now introduced be marked "Defendants' Exhibit before the Notary Public in New York No. 1."

(The paper is so marked by the notary.)

(Same objection.)

Q. 13. Will you state whether or not the land grant made by Congress to the Southern Pacific Railroad Company, of March 3, 1871, was one of the securities offered in connection with said bonds and relied upon in said trust mortgage and prospectus as an inducement for the purchase of said bonds?

(Same objection.)

A. It was.

Q. 14. Would the firm of Speyer & Company have undertaken the negotiation of these bonds without that security?

(Same objection.)

A. They would not.

Q. 15. I call your attention to that clause in the prospectus which reads as follows: "The number of acres of land embraced in the United States land grant and covered by the mortgage is estimated at upwards of 11,000,000 acres, of which it is stated by the company that over 7,000,000 acres appertain to portions of the road already completed. Of these there have been issued to the company patents for more than one million acres, and lists for selected lands are now pending with the United States Government for a large amount." Were those representations relied upon by you and relied upon

by the purchasers of these bonds as a portion of the security upon which the bonds were purchased?

(Same objection.)

A. They were relied upon by us, and, if our prospectus was relied upon at all by the purchasers of the bonds, it was relied upon by the purchasers of the bonds.

Q. 16. Will you state whether or not these bonds, issued under this trust mortgage heretofore referred to, are held in the open market for value received, by innocent purchasers, and in all of the various localities you have mentioned?

(Same objection.)

A. The bonds in question are held in England, in Holland, in Germany and in the United States, by the general public, who have bought them upon the prospectus in question, and subsequently; the holding is extremely scattered and it is safe to say has aggregated at times, if not now, approximately $30,000,000.

Q. 17. Are these bonds recognized as a standard security on the market?

(Same objection.)

A. They are.

Q. 18. And in the various localities you have mentioned?

(Same objection.)

A. They are.

Q. 19. Will you state whether or not they are dealt with similarly to other bonds issued and negotiated and sold by firms like yourselves?

(Same objection.)

A. I think I had better say how they are dealt in rather than make a comparison, as there are so many different ways of dealing with bonds under different issues, which I might not know about.

Q. 20. Very well; state it exactly as you wish?

(Same objection.)

A. The bonds are held more possibly, than usual by serious investors, who hold them for the interest they yield, and, as they may desire to realize the cash or may desire to purchase other securities, they sell them in amounts of anywhere from $1,000 to $100,000 or upwards. They have a market which might be said to be similar to that for United States Government bonds, or New York Central bonds or West Shore bonds. They pass from hand to hand, just as people feel disposed to get their cash for them, or exchange them for other securities.

Cross-Examined by Mr. CALL.

X. Q. 21. For whom did you act in the sale of these bonds?

A. Your question, I suppose, refers to the firm of Speyer & Company?

X. Q. 22. Who is your principal—that is, whom did the firm of Speyer & Company act for in the sale of the bonds?

A. In the main Speyer & Company acted for the firm of Speyer & Company, but the firm of Speyer & Company represented, besides themselves, to some extent—to what extent I cannot recall—other financial firms, commonly called members of the syndicate.

X. Q. 23. You probably misunderstand my question. For whom did Speyer & Company sell the bonds?

A. I am trying to explain that fully.

X. Q. 24. Very well.

A. Furthermore, in the issue of ten millions of bonds, they were including, beyond the amount owned by Speyer & Company, and the so-called members of the syndicate, an amount of option bonds—when I say option bonds I mean bonds upon which Speyer & Company and the members of the syndicate had an option, by reason of a firm purchase thereof—

X. Q. 25. They had an option to purchase these bonds, did they?

A. They had, by reason of a firm purchase of the bonds—an outright purchase of the bonds—an option to buy further amounts thereof.

X. Q. 26. You then purchased, as a firm, some of the bonds yourselves and you sold them as your own bonds—

A. (Interrupting.) The facts are these; I will give you the exact facts, which, as I recall them, are that the firm of Speyer & Company made a purchase of a certain amount of these bonds and formed a syndicate to take those bonds over, retaining for the firm of Speyer & Company an interest in said syndicate. The syndicate holding, including Speyer & Company, carries with it an option to buy further amounts thereof, which in all amounted to, as well as I remember, the ten million bonds offered under the prospectus.

X. Q. 27. From whom did you obtain the option to purchase the bonds?

A. It would be impossible to answer that question exactly without referring to the contracts made at the time. The contracting party might be one or the other of the corporations with which we have dealt, or individuals. It would be impossible for me to tell that without referring to the contracts; but I can say that the negotiations were carried on with Mr. C. P. Huntington, in one of his official capacities—not with him individually.

X. Q. 28. You don't know whether it was with him as a director or officer of the Southern Pacific Railroad Company, or the Pacific Improvement Company?

A. With whom the contract was made I could not tell without reference to the papers drawn at the time, because it is now something like thirteen years ago.

X. Q. 29. Who comprises the syndicate which purchased the bonds and sold them?

A. If I desired to give that information it would not be possible to do so, as you can well imagine at this period of time, without reference to books and papers; but I wouldn't give that information unless it was a matter of necessity that I should do so. It discloses the business of Speyer & Company, and, while I would not object to naming some parties whom I might remember, unless it was a compulsory matter I should not se[illegible] to disclose, for general public knowledge, my private affairs, or the private affairs of the firm of Speyer & Co., I should say.

Mr. REDDING.—I will state to the witness, on behalf of the defendants, that if the information called for by

the Government counsel should lead to the necessity of unfolding to the general public the private business of Speyer & Company, that does not refer to the general holding of these bonds in the market, I shall advise Mr. Salomon not to answer the question. That, of course, is a matter which you, Mr. Salomon, can state of your own knowledge whether it be so or not, and upon so stating I would instruct you as the case may be.

The WITNESS.—The information called for does not refer to the general holding of the bonds in the market in any shape or way that I can discover or see. It is simply a matter of an original partnership purchase by a syndicate, which relieved itself of its holding by selling the bonds, through the prospectus in question, to the general public, but the members of the syndicate in question are not known to the general public.

Mr. CALL. (To Mr. Redding).—I ask you if you rely upon the purchase by the syndicate mentioned, as being a purchase by persons, in good faith and for value, or otherwise?

Mr. REDDING.—I rely on the testimony of the witness given on the direct examination, showing that these bonds are held by the general public, for value received in open market, similar to United States bonds, and throughout the various monetary centers of the world.

Mr. CALL.—Do you reply upon the purchase by the syndicate as being such a purchase? Because if you do I should want to inquire into the purchase by the syndicate.

Mr. REDDING.—I do not; certainly not.

The WITNESS.—I might cover that. I will say that there is no difference between the purchase of Speyer & Company and the purchase by the syndicate. I was asked a question which I couldn't answer by simply saying the purchase was made by Speyer & Company and tell the truth. The purchase was made by Speyer & Company, but subsequently divided among the syndicate for the purpose of dividing the risk, but the purchase by the general public has absolutely nothing to do with it. To the general public it was an anonymous body. Is that clear.

Mr. REDDING.—That is perfectly clear, and I will state to the counsel for the Government that we are trying to show by this witness that these bonds have passed into the possession and holding of the general public for value received.

Mr. CALL.—If the claim is made by the defendants in this action that the purchase by the syndicate or by Speyer & Company for the syndicate is a purchase in good faith and for value such as claimed, it might be necessary to inquire into the knowledge of the parties and as to who constituted the syndicate. If you waive any such question as that and rely upon the sales by the syndicate, then I will not need to inquire as to who constitute the parties in interest.

Mr. REDDING.—I did not ask the witness anything about the syndicate at all, but simply asked about the bonds being sold, for value received, to the general public.

Mr. CALL.—Other than the syndicate?

Mr. REDDING.—Yes.

Cross-Examination Resumed by Mr. CALL.

X. Q. 30. I will ask if Mr. Huntington was one of the syndicate? A. Mr. Huntington was not.

X. Q. 31. Was Mr. Charles Crocker one of the syndicate?

A. Mr. Crocker was not one of the syndicate.

X. Q. 32. Nor Mr. Mark Hopkins?

A. Nor Mr. Mark Hopkins.

X. Q. 33. Was Leland Stanford one of the syndicate?

A. No, sir, he was not. Maybe I can help you by saying that, to the best of my knowledge, none of the parties interested in the Southern Pacific or any of their companies was interested in the syndicate.

X. Q. 34. So far as you know?

A. This purchase was made by bankers, and not in partnership with gentlemen who built the road or connected with its management, to the best of my knowledge.

X. Q. 35. Can you name the parties to whom you sold these bonds, or any of them?

A. Not at this date. I can say that the bulk of these bonds, when sold under the prospectus in question, were sold in Europe—were sold in London, in Amsterdam and in Frankfort-on-the-Main. There were hardly any bonds subscribed for in the city of New York or in the city of Boston at that time, except one amount of bonds which was subscribed for, but subsequently rebought; therefore the name of that party will probably not interest you, although that is the one name that I could give you.

If you wish to know it I can tell it, but I don't think it bears upon the matter.

X. Q. 36. Do you know whether any of the purchasers of these bonds were, of their own knowledge, acquainted with the terms and conditions of the mortgage or deed of trust of 1875?

A. You mean beyond the information contained in the prospectus in question?

X. Q. 37. Yes?

A. That I cannot tell you. My most positive belief is they were not acquainted with any other facts than those set forth in the prospectus in question.

X. Q. 38. Do you know whether any of the purchasers were acquainted with the terms and conditions of the act of Congress approved March 3, 1871?

Mr. REDDING.—Objected to as incompetent, immaterial, and not proper cross-examination; as calling for the opinion of the witness upon a matter with which he could not be familiar nor could he be competent to testify to.

A. My previous answer would cover that question.

X. Q. 39. Do you know, or did you know at the time of the sale of these bonds, when the Southern Pacific Railroad Company, the mortgagor therein named, was incorporated.

(Same objection.)

A. The date of the incorporation of the Southern Pacific Railroad Company of California? I have every reason to believe that was a fact known to the firm of Speyer & Company, inasmuch as the issue of the bonds

and the drawing of the prospectus was only possible after most through and careful examination and investigation of all facts pertaining to the question of value, and legal shape—legal position, you might say.

X. Q. 40. Did you know that the Southern Pacific Railroad Company, the mortgagor, was incorporated by the consolidation of a number of other railroad companies subsequent to the act of Congress of March 3, 1871?

Mr. REDDING.—Same objection, and the further objection that the Government counsel is stating in his question a legal opinion of his own, and I move that that portion of the question be stricken from the record.

A. I can't answer that question in any other language, I think, than the previous answer given.

X. Q. 41. That is, that you assume that you did know in regard to it?

(Same objection.)

A. I must assume that. I can't be expected, about thirteen years later, to be able to recite every fact that was then in my knowledge in connection with a large matter of this kind, or the knowledge of other members of my firm. What you ask me is a physical impossibility.

X. Q. 42 I believe you stated that you were familiar with the terms and conditions of the mortgage or deed of trust dated 1875, to D. O. Mills and Lloyd Tevis. Did you so state? A. As I remember it, I did.

X. Q. 43. What lands did you understand were granted to the Southern Pacific Railroad Company, upon which it was sought to make a mortgage?

A. The lands coming under the description in that mortgage.

X. Q. 44. The description of the lands in the mortgage? A. Exactly.

X. Q. 45. I will ask you to point out what that description of the lands is which contains the lands in question?

A. I don't know anything about the suit. (Referring to the trust mortgage.) The description begins at the foot of page third of the trust mortgage and covers a portion of page 4.

X. Q. 46. Did you know that Congress had made a grant to the Atlantic & Pacific Railroad Company of California?

(Same objection.)

A. I am unable to answer that question at this date.

X. Q. 47. Can you state what investigations were made by any of the proposed purchasers of bonds, or purchasers of bonds, in regard to the title of the Southern Pacific Railroad Company to any particular lands?

(Same objection.)

A. What do you mean by purchasers of the bonds?

X. Q. 48. Persons to whom you sold bonds?

A. What we call the general public.

X. Q. 49. Yes?

A. I think I have answered that question under another answer.

X. Q. 50. You might just state then what it was.

A. As I remember, the answer was, to the best of my knowledge these bonds were bought by the general pub-

lic upon the statements made in the prospectus mentioned. The prospectus mentioned referred to the trust mortgage which, I think the prospectus says, was on file and could be referred to, if desired, but I doubt very much whether any reference was made to it as the prospectus gave a general description of it.

W. SALOMON.

Subscribed and sworn to before me this 8th day of November, 1893.

[Seal] PATRICK A. NOLAN,

Notary Public, Kings County. Certificate filed in N. Y. Co.

Adjourned to Monday, November 6, 1893, at 11 o'clock A. M.

Defendants' Exhibit Before the Notary Public in New York No. 1.

Issue of $10,000,000 Six Per Cent First Mortgage Railroad and Land Gold Bonds of the Southern Pacific Railroad Co. of California.

In bonds to bearer of $1,000 and $500 each, with provision for Registration of Bonds in the name of holder if desired. Issue April 1, 1875; October 1, 1875, and October 1, 1876; and payable thirty years from date.

Interest at six per cent per annum, payable half yearly on the 1st April and 1st October in gold, at New York.

Messrs. Speyer & Co., New York,

Messrs. Brewster, Basset & Co., Boston,

Mr. Laz. Speyer Ellissen, Frankfort-on-Main,

Messrs. Speyer Brothers, London,

Messrs. Teixeira de Mattos Bros., Amsterdam,

Mr. E. J. Meyer, Berlin,

Offer the above Bonds for subscriptions.

The subscription list will be opened on Thursday, 11th March, and closed on Friday, 12th March.

The issue price is 97½ per cent ex. April 1st, 1880—Coupon, payable as follows:

5 per cent on application.
15 per cent on allotment.
40 per cent on April 15th, 1880.
37½ per cent on May 15th, 1880.

Allottees may anticipate installments under discount at the rate of 5 per cent per annum.

These Bonds are secured by a first mortgage on the railroad and telegraph line, rolling stock, fixtures, land and franchises of the Southern Pacific Railroad of California, under which $46,000,000 Bonds can be issued, of which $29,520,000 (of which the above $10,000,000 are a part) have thus far been issued. The total length of projected road is 1,150 miles, made up as follows: From San Francisco to Soledad, 143 miles; Carnadero to Tres Pinos, 18 miles; Soledad to Poso Junction (Lerdo), 160 miles; Huron to Yuma, 529 miles; Los Angeles to Wilmington, 22 miles; Mojave Junction to Colorado river (estimated), 278 miles; of which 712 miles are completed and in operation, viz: From San Francisco to Soledad, 143 miles; Carnadero to Tres Pinos 18 miles; Huron to Yuma, 529 miles; Los Angeles to Wilmington, 22 miles.

These 712 miles of railroad are divided into the Northern and Southern divisions.

The Northern division runs from San Francisco to Soledad, and from Carnadero to Tres Pinos, in all 161 miles.

The Southern division extends from Huron to Yuma, with a branch road from Los Angeles to Wilmington, in all 551 miles, and is intersected at Goshen by the San Joaquin Branch of the Central Pacific R. R.

The net earnings over operating expenses for these divisions are stated by the Company to have been:

	For the Northern Division.	For the Southern Division through Rental from Central Pacific Railroad Company, Lessee.	Total.
1878.	$499,344.03	$1,656,360.00	$2,155,704.03
1879.	362,761.78	1,635,554.93	1,998,316.71

Or more than sufficient to meet the interest on the amount of outstanding Bonds.

The Company states that the decrease in the earnings of the Northern division in 1879 was owing in part to temporary causes, which, having been recently removed, a return to the former scale of earnings is promised.

The Northern division is separated from the Southern division by a gap of about 100 miles by one route, from Tres Pinos to Huron, and by a gap of about 160 miles by another route, from Soledad to Poso Junction. The San Joaquin Valley branch of the Central Pacific Railroad furnishes the Southern division with an outlet both to San Francisco and eastwardly over the main line of the Central Pacific Railroad, and in view of common interests,

the Central Pacific Railroad Company has taken a lease of the Southern division of the Southern Pacific Railroad of California, for a period of not less than five years from January, 1880, and by the terms of the lease "if a railroad is not completed in five years from that date, so that there is a connection of the Southern Pacific Railroad of California with the eastern system of railroads on what is known as the 32d parallel line, the lease shall be extended until such connection is made, provided such extension does not exceed five years longer, or ten years in all," from January, 1880. By the terms of the lease, "the net rental agreed to be paid during the continuance of this lease and any extension thereof, shall be two hundred and fifty dollars a month, or three thousand dollars a year per mile" (being, at present, on about 551 miles, equals about $1,650,000 annual rental), "and if, for any cause, it shall be reduced by mutual consent of the parties that the annual amount of such rental as reduced shall, at least, be sufficient to pay all the interest that has been, or may be agreed to be, paid in any one year on any bonds of the party of the first part" (Southern Pacific Railroad Company of California), "herein outstanding during the continuance of the lease."

The number of acres of land embraced in the United States land grant and covered by the mortgage is estimated at upwards of 11,000,000 acres, of which it is stated by the company that over 7,000,000 acres appertain to portions of the road already completed. Of these there have been issued to the company patents for more than one million acres, and lists for selected lands are now

pending with the United States Government for a large amount. The net cash avails of the land sales are to be applied to the repurchase or ultimate payment of these bonds; $334,000 are stated by the company to have been redeemed up to December 31, 1879, from the surplus so available.

A sinking fund of $100,000 a year, commencing in 1882, from the earnings of the road is provided as a further security for the loan.

It is contemplated that the Southern Pacific Railroad of California will form part of a through line to El Paso where, meeting with other roads projected to that point, an outlet to the Gulf of Mexico and to the Atlantic seaboard may be obtained. At its terminus at Yuma, it connects with the Southern Pacific Railroad of Arizona, an independent but closely affiliated company, which during the past year was built and operated to Casa Grande, a distance of about 182½ miles, and is since being rapidly pushed to the vicinity of Tucson, about 65 miles further east.

Applications must be made on the annexed form.

The allotment of the loan, which will be made at the discretion of the issuing houses, will be made as early as possible after the subscription is closed. If no allotment is made, the deposit will be returned in full, and if only a portion of the amount applied for be allotted, the balance of the deposit will be applied toward the payment of the amount due on allotment.

In default of payment of the sum due on allotment, or any subsequent installments the allotments and all payments will be subject to forfeiture.

Upon payment of the deposit on allotment, scrip certificates to bearer will be issued, which will be exchanged for definite bonds as soon as the issue price is paid up.

The mortgage deed, copy of lease and official statements can be inspected, by intending subscribers, at the office of Speyer & Co., 52 Exchange Place, New York, or Messrs. Brewster, Basset & Co., 35 Congress Street, Boston.

March 8th, 1880.

[Endorsed]: Deft. Exhibit before the Notary Public in New York, No. 1. P. A. Nolan, Notary Public.

Defendants' Exhibit No. 58.

GEORGE T. FOLSOM, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Mr. SINGER.—Q. Where do you reside?

A. In San Francisco, 1001 Pine street, corner of Taylor, Hotel Bella Vista.

Q. Are you an officer of the Southern Pacific Railroad Company, one of the defendants in this suit?

A. I am not; I am simply the general accountant of the Southern Pacific Railroad Company.

Q. For how long have you held that office?

A. Twenty-three years.

Q. Have you kept or have you now in your custody a record of the bonds issued and sold by the Southern Pacific Railroad Company under the trust deed made on

April 1st, 1875, by that company to D. O. Mills and Lloyd Tevis, trustees, in trust?

Mr. CALL.—It is understood that the testimony of this witness is objected to as incompetent, immaterial, and irrelevant?

Mr. SINGER.—It will be so understood.

A. Yes, sir.

Q. Please state from your records the total amount of such bonds sold by the Southern Pacific Railroad Company.

A. We treat as sold by the Southern Pacific Railroad Company all bonds issued; if they are paid out to the contractors for the building of the road we treat them as sold; that is to say, they have paid us for those bonds in road which they have built for us.

Q. What is the total amount of such sales prior to March 3d, 1887?

A. The sale of the bonds of 1875 from their date April, 1875, to March 3d, 1887, would be $14,626,000 to the Western Development Company, and $8,476,000 to the P. I. Company, making in all $32,102,000.

Q. And some of them to the Contract and Finance Company?

A. Those were in the old bonds, which I could not very well tell you about; the 1875 bonds were issued to cover a former issue of bonds retired, and then to go on with the construction of the road.

Mr. CALL.—Q. That is the total amount issued between those dates under the mortgage of 1875?

A. Yes, sir; that is the total amount between those

dates under the mortgage of 1875; that is, between the dates of April 1st, 1875, and the date of March 3d, 1887.

Mr. SINGER.—Q. Were all those sales genuine and made for considerations actually paid?

A. They were.

Q. Were the bonds sold at their face value or for some other value?

A. I can say in answer to that that all those bonds were sold at par; yes, sir; they were all sold at par, taken by the contractors; in other words, they were all sold to the contractors of the road in payment for the road; we received as pay for those bonds the road itself, and they were taken by the contractors at par.

Q. To what extent have these bonds been redeemed?

A. We have redeemed bonds to the extent of eight million and some odd thousand dollars, nearly nine million dollars, and those redemptions we treat as applying to the previous issues; in other words, the old bonds were replaced by the new bonds; now, the new bonds, the total issue being an addition to the amount of the old bonds, to the bonds paid out, as I have stated, for the construction of the road, to be added to that, it was from those first issues that these redemptions were made; in other words, we consider them as redeeming the oldest bonds.

Q. Then the nine million of dollars of bonds redeemed have been applied to the payment of bonds other than the $32,000,000 that you have mentioned as issued subsequent to April, 1875?

A. That is a question I would have to answer in this way: the total issue of our bonds, that is the present

issue of bonds, the 1875 bonds issued in retirement of the old bonds, and in the construction of the new road, of all those bonds that were issued there has been a redemption of somewhere of nine million dollars in round numbers; now, we treat that as applying to the earlier bonds, naturally.

Mr. CALL.—Well, that was the earlier bonds?

A. Not necessarily; it was the bonds of 1875, because those bonds replaced the old bonds, and we may redeem bonds of numbers that were issued only six months ago.

Mr. SINGER.—Q. What amount of bonds issued under the trust mortgage of April 1st, 1875, are still outstanding unredeemed?

A. I would have to get additional memoranda.

Q. Will this memorandum help you any (showing)?

A. Yes, sir; this will; we redeemed, as I have stated here, to December 31st, 1895, $8,617,500.

Q. Have you redeemed any of the 1875 bonds since December 31st, 1895?

A. No, we have not; none at all.

Q. Then the figure $8,617,500 represents the extent of the redemption of the 1875 bonds to date?

A. They do; yes, sir.

Cross-Examination.

Mr. CALL.—Q. The amount outstanding, then, is the difference between those figures? A. Yes, sir.

Q. The difference between the sum of $23,102,000 and $8,617,500? A. Yes, sir.

Q. All of those bonds were issued to the Pacific Improvement Company or to the Western Development Company?

A. Yes, sir; all these bonds, the figures of which I have given you.

Q. What was the date of that old mortgage which you spoke of redeeming some of the bonds of?

A. I don't remember the date of that mortgage; I don't like to answer unless I know absolutely; of course, I can ascertain the date, but I have so many things to think of in the way of figures that I don't carry the thing in my mind; the mortgage having ceased many years ago, of course I dismissed it from my recollection entirely.

Mr. SINGER.—Will you excuse the signature of Mr. Folsom to his deposition?

Mr. CALL.—Yes, sir.

Defendants' Exhibit No. 59.

FRANK S. DOUTY, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Mr. SINGER.—Q. Are you an officer of the Pacific Improvement Company? A. I am.

Q. Were you at any time an officer of the Western Development Company? A. I was.

Q. Did either of those companies ever purchase bonds issued under the trust deed executed by the Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees?

Mr. CALL.—It is understood that the testimony of this witness is objected to as incompetent, immaterial, and irrelevant?

Mr. SINGER.—That is my understanding.

A. In the performance of our business in railroad building we acquired these bonds; that was a part of the consideration for building the roads.

Q. Did those companies accept the bonds in payment of contract price for the construction of railroad?

A. On account of the contract price; there were other considerations besides bonds.

Q. Were they taken at their face value?

A. Yes.

Q. And in exchange for that did the companies credit them with that amount of money on the contract price for construction? A. They so treated it, I believe.

Q. Have you any memoranda showing to what extent the bonds were taken by the Western Development Company, and to what extent by the Pacific Improvement Company?

A. Yes, sir. (Producing memoranda.) The Southern Pacific Railroad Company paid the Western Development Company $14,576,000 in bonds at par; they paid the Pacific Improvement Company $7,962,000 in bonds at par, making a total of $22,538,000 in bonds at par.

Q. Do you know to what extent those bonds have been redeemed? A. I am unable to say.

Q. What disposition, if any, did the Western Development Company make of its bonds? A. Sold them.

Q. To people at large?

A. Yes, sir; wherever they could find buyers.

Q. To various individual purchasers?

A. Yes, sir.

Q. What disposition did the Pacific Improvement Company make of the bonds taken by it?

A. The same disposition.

Cross-Examination.

Mr. CALL.—Q. How many of those bonds do they own now? A. They do not own any.

Q. How many of those bonds do the Western Development Company own now?

A. They do not own any.

Q. Do you know to whom they sold those bonds?

A. I could not say from recollection; I presume I could find records of the transactions in the accounts as they occurred, but that would be no guide as to who owns them now; they are nearly all held in Europe, or in the Eastern States, I believe.

Q. The Western Development Company is a corporation organized under the laws of this State?

A. Yes.

Q. And the same of the Pacific Improvement Company? A. Yes.

Q. The officers and stockholders of the Pacific Improvement Company were the same as the Southern Pacific Railroad Company, I believe? A. No.

Q. Substantially?

A. None of the officers, I think, were the officers of the Pacific Improvement Company; some of the directors of

the Southern Pacific were the owners of the principal stock of the Pacific Improvement Company.

Q. And also of the Western Development Company?

A. At present; yes, sir.

Q. They were at the time of the construction of the road?

A. I mean by saying "at present, yes," the owners of the Western Development Company originally died, and did not participate in the ownership of the Pacific Improvement Company.

Q. Mr. C. P. Huntington, Mr. Leland Stanford, Mr. Charles Crocker, Mr. Mark Hopkins, they were directors of both the Southern Pacific Railroad Company and the Pacific Improvement Company and the Western Development Company?

A. I think none of them were ever directors of the Pacific Improvement Company or the Western Development Company.

Q. But they owned the stock?

A. They owned the stock; they were the principal owners of the stock.

Redirect Examination.

Mr. SINGER.—Q. Those bond purchases of the Western Development Company and Pacific Improvement Company were all made prior to March 3d, 1887, were they? A. Yes.

Q. And the sales of the bonds were also made prior to that date? A. Yes.

Mr. SINGER.—Mr. Call, will you excuse the signature of Mr. Douty from his deposition?

Mr. CALL.—Yes, sir.

Defendants' Exhibit No. 60.

S. S. M. (4-207.) W. J. M.

Department of the Interior.

General Landoffice,

Washington, D. C., Sept. 29, 1897.

I, Binger Hermann, commissioner of the general land-office, do hereby certify that the annexed copies relative to the preparation of a map to show the adopted line of location of its road by the Texas and Pacific Railroad Company are true and literal exemplifications from the files and records of this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[Seal] BINGER HERMANN,

Commissioner of the General Landoffice.

J. I. P. A. M.

2479-'96.

L. & R. R. Div.

Department of the Interior.

Washington, April 24, 1896.

The Commissioner of the General Landoffice.

Sir: I enclose herewith a letter from the attorney general, dated the 17th instant, asking for a certified map,

showing the public surveys, on which "shall be protracted the line of definite location of the Texas and Pacific Railroad," as described for use in the suit against the Southern Pacific Railroad Company.

The suggestion is also made therein that all patents, certificates, and listings of lands in the disputed limits be suspended till the suit is terminated, and that no act that will seemingly recognize any right of the Southern Pacific Railroad Company in such lands be performed.

In order that the request of the attorney general may be acceded to, I have to direct that a map be prepared on which shall be protracted the adopted line of location by the Texas and Pacific Railroad, and, with that end in view, I enclose herewith the annual reports of the Texas and Pacific Railroad Company for the years 1874 and 1876 containing the data required in preparing the map.

You are also directed to suspend action relative to recognizing the Southern Pacific Railroad Company in any way so far as the disputed limits are concerned.

On completion of the map you will transmit it to the department and return the foregoing papers.

Very respectfully,

HOKE SMITH,

Secretary.

Refer in reply to
this initial: H. K.
"L."

Department of the Interior.

General Landoffice,
Washington, D. C., April 28, 1896.

Address only the
Commissioner of the General Landoffice.

The Secretary of the Interior.

Sir: In reply to yours of the 24th inst., I herewith enclose a report of the chief draftsman of the general landoffice with reference to the *complication* of a certified map showing the public surveys on which shall be protracted the line of definite location of the Texas and Pacific Railroad, as requested in the letter of the honorable attorney general of the 17th inst.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Department of the Interior.

General Landoffice,

"L." Washington, D. C., April 28, 1896.

Address only the
Commissioner of the General Landoffice.

The Commissioner of the General Landoffice.

Sir: With reference to the protraction of the line of definite location of the Texas and Pacific Railroad, showing the public surveys contiguous thereto as requested in the letter of the honorable attorney general to the honorable secretary of the interior dated April 17, 1896, and forwarded to you with letter of transmittal of April 24, 1896, by the honorable secretary of the interior, I have the honor to report that so far as the desired protraction is concerned I find:

1st. That the line as shown on the map accompanying the 5th annual report of the board of directors of the Texas and Pacific Railroad Company to the stockholders, August 8, 1876, is so general in character and so devoid of control as to make it practically impossible to apply the line defining this route to the township subdivisions by which it is surrounded; and

2nd. That applying the breadth of the general dotted black line defining the route on this map to the scale of said map, this line is found to be nearly the breadth of a township.

It therefore follows that even if there should have been sufficient orientation or control for the proper placement of this line, the fact that in plotting the same it would be impossible to enter into detail with reference to sections or lesser subdivisions, but that it would cover nearly the whole township, makes it impossible for this office to comply with the request of the honorable secretary of the interior.

Very respectfully,

HARRY KING,

Chief of the Drafting Division.

M. N. 46344. 1896. W. J. M.

Refer in reply to
this initial:
"F."

Department of the Interior.

General Landoffice,

Washington, D. C., April 29, 1896.

Address only the
Commissioner of the General Landoffice.

The Honorable the Secretary of the Interior.

Sir: Referring to my letter of this date, stating that it is impossible to protract the line of the Texas & Pacific Railroad, as shown by the report for 1876 of the Texas & Pacific R. R. Co., with the lines of the public surveys, in

this connection and in further reply to your letter of April 24, I call attention to the following extract from the opinion of Assistant Attorney General Montgomery, rendered after the forfeiture of the Texas Pacific Railroad grant, which opinion was approved by Secretary Lamar, November 2, 1885 (4 L. D. 217).

"It will be observed that the first and chief object of the above-named act was to secure the building of a railroad from Marshall, Texas, to the Bay of San Diego, California; and secondly, to connect said railroad, when built, with the city of San Francisco. And it appears, from appellants' own showing, that although a map of general route of said Texas Pacific Railroad was filed in the general landoffice, yet not a mile of said road was ever built, nor was its line of definite location ever established."

There is not, and never has been, filed in this office a map which is described in terms as a map of "definite location" of the Texas and Pacific Railroad. By departmental letter of September 2, 1871, there was transmitted to this office a map therein described as "a map of the general route" of said railroad, and it was according to the line of road shown thereon that the limits of the grant for said road were adjusted, and lands were withdrawn.

In reference to the direction to suspend action relative "to recognizing the Southern Pacific Railroad Company in any manner so far as the disputed lands are concerned," I beg leave to report that in the decision of Secretary Lamar referred to of November 2, 1885, it will be seen that he held that the Southern Pacific Railroad Company had no right to the lands within the overlap of the two grants,

and that since then this office has been governed by that decision.

Very respectfully,

S. W. LAMOREUX,

Commissioner.

[Endorsed]: U. S. v. S. P. Consd. 675, 587, and 662. Defendants' Exhibit No. 60. Stephen Potter, Special Examiner.

2410 22674

FOLD OUT IS TOO LARGE TO BE FILMED

[Endorsed]: U. S. v. S. P. Consd. 675, 587, and 662. Defendants' Exhibit No. 76. Stephen Potter, Special Examiner.

United States vs. S. P. R. R. Co. et al. Consolidated Nos. 675, 587, and 662. Report of special examiner. Opened and filed Mar. 29, 1899. Wm. M. Van Dyke, Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

Consolidated No. 675.

No. 587.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

No. 662.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

No. 675.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

Assignment of Errors.

The above-named defendants, by the undersigned, their counsel and attorneys, in connection with their petition for appeal herein, say that the decree in the above-entitled cause, made and entered on August 24th, 1899, is erroneous and against their just rights, in the following particulars:

I.

The Court erred in overruling the defendants' plea to the plaintiffs' bill of complaint in the said suit No. 587.

II.

The Court erred in deciding that the United States is the owner, by title in fee simple absolute, or the owner in anywise, of the lands, or any part thereof, described in subdivision "First" of the said decree; because, as shown by the evidence:

1st. A large portion of the said lands are odd sections, situated within the primary limits of the land grant made to the defendant Southern Pacific Railroad Company by

section 23 of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved on March 3rd, 1871, not embraced by any exception to the grant of lands thereby made; and the defendant Southern Pacific Railroad Company duly constructed the railroad contemplated, in aid of which the said grant was made, and fully performed the conditions imposed by the said act of Congress; and the railroad so constructed was duly accepted and approved by the proper officers of the United States. The defendants are, therefore, owners by title fee simple, absolute, and indefeasible, of all the lands in this paragraph referred to.

2nd. The remainder of the said lands are odd sections, situated within the indemnity limits of the land grant made to the defendant Southern Pacific Railroad Company by the act of Congress mentioned in the next preceding paragraph hereof, and are not embraced by any exception to the grant of lands thereby made; and all the odd sections within the primary limits and indemnity limits of the land grant made to the defendant Southern Pacific Railroad Company by the said act of Congress, not finally disposed of by the United States prior to March 3d, 1871, are insufficient to make or equal the amount of land thereby granted to the defendant Southern Pacific Railroad Company. For these reasons, and the other reasons set forth in the next preceding paragraph hereof, the defendants are also the owners by title in fee simple, absolute, and indefeasible, of all the lands referred to in this paragraph.

3rd. Some of the lands referred to in the next preceding paragraph hereof were duly selected by the defendant Southern Pacific Railroad Company, under direction of the secretary of the interior, as indemnity lands granted to it by the said act of Congress. As to all which selected lands the defendants are, for the reasons hereinbefore set forth, entitled to the issue of patents from the United States to the defendant Southern Pacific Railroad Company; and are also entitled to select, and receive patents for, all of the lands referred to in the 1st and 2d paragraphs hereof, which remain unselected.

4th. The defendants D. O. Mills and Homer S. King are trustees under a deed of trust duly made and executed to them on April 1st, 1875, by the defendant Southern Pacific Railroad Company, and the defendant Central Trust Company of New York is trustee under a deed of trust made and executed to it on August 25th, 1888, by the defendant Southern Pacific Railroad Company; which deeds of trust conveyed all the lands described in the first subdivision of the said decree, to secure the payment of, and out of the proceeds of the lands so conveyed to redeem and pay, a large number of bonds issued and sold by the defendant Southern Pacific Railroad Company for several millions of dollars paid to it by numerous bona fide purchasers thereof, who still hold the bonds so purchased, unpaid. The said trustee defendants are, therefore, bona fide purchasers of all the lands so conveyed to them; and as to such of those lands as have been patented by the United States to the defendant Southern Pacific Railroad Company, the right and title of the said trustee

defendants is confirmed by the act of Congress, entitled "An act to provide for the extension of time within which suits may be brought to vacate and annul land patents, and for other purposes," approved on March 2d, 1896.

III.

The Court erred in ordering, adjudging, or decreeing that the defendants, either or any of them, be enjoined or restrained from having or claiming any right, title or interest in, or lien upon, all or any of the lands described in the first subdivision of the said decree, for the reasons set forth in assignment "II" hereof.

IV.

The Court erred in ordering, adjudging, or decreeing that the title to the lands described in the first subdivision of the said decree is quieted in the United States, for the reasons set forth in assignment II hereof.

V.

For the reasons hereinbefore assigned, the Court erred in ordering, adjudging, or decreeing "that the parties to these consolidated cases, plaintiffs and defendants, shall each pay their own costs"; and in not adjudging that the defendants have and recover their costs.

Wherefore, the defendants, appellants, pray that the said decree be reversed in all the respects and particulars herein assigned and specified as error; and that the said Circuit Court be directed to enter a decree dismissing the

bill of complaint of the plaintiff in each and all of the cases mentioned on the title page of the said decree.

WM. SINGER, Jr., and
W. H. H. HART,
Attorneys for the Defendants.

WM. F. HERRIN,
Counsel for the Defendants.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

Consolidated No. 675.

No. 587.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

No. 662.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

No. 675.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

Petition for Appeal.

The above-named defendants, conceiving themselves aggrieved by the decree made and entered herein on August 24th, 1899, appeal from the said decree to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in their assignment of errors filed herewith; and they pray that their appeal may be allowed and that a true copy of the record, opinion of the Court, assignment of errors, and all proceedings in the cause, under the seal of this Court and the hand of its clerk, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California.

Your petitioners further pray that, upon giving a good and sufficient bond, to be approved by this Court, all proceedings in this cause, and upon the said decree, may be stayed pending their appeal.

Dated October 30th, 1899.

WM. SINGER, Jr., and
W. H. H. HART,
Attorneys for the Defendants.

WM. F. HERRIN,
Counsel for the Defendants.

Order Allowing Appeal.

The foregoing claim of appeal, and prayer for supersedeas, are allowed and granted; the supersedeas to take effect upon the filing of a good and sufficient bond in the sum of three thousand dollars, conditioned that the appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good.

It is further ordered that a true copy of the record, opinion of the Court, assignment of errors, and all proceedings in the cause, under the seal of this Court and the hand of its clerk, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California.

Los Angeles, October 30th, 1899.

ROSS,
Circuit Judge.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

Consolidated No. 675.

No. 587.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

No. 662.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

No. 675.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

Bond on Appeal.

We, John D. Bicknell, and J. A. Muir, both of the county of Los Angeles, State of California, are held and firmly bound to pay unto the United States of America the sum of three thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, and each of us, our heirs, executors, and administrators, jointly and severally, firmly by these presents.

The above-named defendants have been allowed an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, and a supersedeas from the decree entered in the above-entitled court and cause on August 24th, 1899; and the condition of this obligation is, that if the

defendants shall prosecute their said appeal to effect, and answer all damages and costs, if they fail to make their appeal good, then this obligation shall be void; otherwise to remain in full force.

Dated, signed, and sealed on October 30th, 1899.

JOHN D. BICKNELL. [Seal]
J. A. MUIR. [Seal]

State of California, } ss.
County of Los Angeles.

John D. Bicknell and J. A. Muir, being duly sworn, each for himself says: I am one of the sureties on the foregoing bond, and subscribed my name thereto.

I am a resident of and freeholder within the county of Los Angeles, State of California, and am worth the sum of three thousand dollars, over and above all my just debts and liabilities, in property within the said county which is not exempt from execution.

JOHN D. BICKNELL.
J. A. MUIR.

Subscribed and sworn to before me on October 30th, 1899.

[Seal] R. W. DARBY,
Notary Public in and for the County of Los Angeles, State of California.

[10c. Int. Rev. Stp. Canceled.]

The foregoing bond is approved.

ROSS,
Circuit Judge.

[Endorsed]: Con'd No. 675. U. S. Circuit Court, Ninth Circuit, Southern District of California. United States of America vs. Southern Pacific Railroad Co. et al. Assignment of errors, petition for allowance of appeal, order allowing appeal, bond on appeal. Received copies of each of above this 30th October, 1899. Jos. H. Call, attorney for plaintiff. Filed Oct. 30, 1899. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., rooms 61-2, Union Trust Building, *N. E. cor. 2nd & Mission Sts.*, San Francisco, Cal., Atty. for S. P. R. R. Co. et al.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

Consolidated No. 675.

No. 587.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

No. 662.

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

No. 675.

UNITED STATES OF AMERICA.

Plaintiff,

vs.

SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, CENTRAL TRUST COMPANY OF NEW YORK, SOUTHERN PACIFIC COMPANY OF KENTUCKY, and COLORADO IRRIGATION CO.,

Defendants.

Stipulation.

It is mutually agreed by and between all parties to this case, consolidated No. 675, as follows:

I.

That the order of dismissal made herein on January 7th, 1898, includes all lands described or referred to in the plaintiff's amended bill of complaint filed in this case consolidated No. 675, on May 26th, 1896, which lie within thirty miles on either side of the line of location of the Atlantic & Pacific Railroad, or which lie within thirty miles on either side of the line of route shown on the map

referred to in the joint resolution of Congress entitled "Joint Resolution concerning the Southern Pacific Railroad of California," approved on June 28th, 1870.

II.

That the following documents, comprising certain of the pleadings filed and portions of the evidence introduced, may be omitted from the transcript of record on appeal to the United States Circuit Court of Appeals; as such documents are deemed irrelevant and immaterial to any issues or controversies presented by the case, to wit:

Plaintiff's amended bill of complaint, filed on March 16th, 1896.

Plaintiff's amended bill of complaint, filed on April 13th, 1896.

Amendments to the plaintiff's bill of complaint, filed on May 14th, 1896.

Defendants' Exhibit No. 5, being deposition of Jerome Madden in case No. 184 on the docket of this court.

Defendants' Exhibit No. 7, being deposition of Wm. Hood in case No. 184 on the docket of this court.

III.

That the following documents introduced in evidence shall be omitted from the transcript of record on appeal to the United States Circuit Court of Appeals, as such documents are duplicates, to wit:

Defendants' Exhibits Nos. 13, 14, 15, 16, 17, and 18, being maps of the location and construction of the South-

ern Pacific railroad, and duplicates of the maps in evidence as Defendants' Exhibits Nos. 24, 25, 26, 27, and 28, hereinafter mentioned.

IV.

That the hereinafter mentioned documents, introduced in evidence, shall be sent by the clerk of this court to the United States Circuit Court of Appeals, as original documents, part of the record on appeal, requiring inspection, under subdivision 4 of rule 14 of the United States Circuit Court of Appeals; such documents to constitute part of the record, but not to be printed unless the Court, or counsel, should direct that all, or certain thereof, be printed. And in event this case is finally appealed to the United States Supreme Court, the clerk of the United States Circuit Court of Appeals shall send the same documents with the transcript of record to the United States Supreme Court, as original documents, part of the record on appeal, requiring inspection, under subdivision 4 of rule 8 of the United States Supreme Court; such documents to constitute part of the record, but not to be printed unless the Court, or counsel, should direct that all, or certain thereof, be printed, to wit:

Plaintiff's Exhibit No. 2, being map of general route of the Texas Pacific railroad, filed with the secretary of the interior on September 2d, 1871.

Plaintiffs' Exhibits Nos. 4, 5, 6, 7, and 8, being certified copies of certain township plats.

Defendants' Exhibit No. 24, being map of the 4th section of the Southern Pacific railroad as located and con-

structed, filed with the secretary of the interior with the commissioners' report upon said section, on March 1st, 1877.

Defendants' Exhibit No. 25, being map of the 1st section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on May 8th, 1874.

Defendants' Exhibit No. 26, being map of the 2nd section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on November 8th, 1875.

Defendants' Exhibit No. 27, being map of the 3rd section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on July 10th, 1876.

Defendants' Exhibit No. 28, being maps of the 5th section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on January 17th, 1878.

Defendants' Exhibits Nos. 38, 39, 40, 41, and 42, being maps of permanent withdrawal, with 20-mile and 30-mile limit lines adjusted to the lines shown on the said maps Defendants' Exhibits Nos. 24, 25, 26, 27, and 28.

Defendants' Exhibit No. 77, being map of the State of California, issued by the commissioner of the general land office.

It is further mutually agreed by and between all the parties to this case consolidated No. 675, that in event it be found by counsel for any of the parties, prior to submission of the case in the United States Supreme Court, that any evidence introduced in the case which he deems material, has been omitted from the transcript of the record, then the clerk of this court shall forthwith, upon the request of counsel, transcribe and forward such omitted evidence to the proper court, as part of the transcript of record; and upon request of counsel for any of the parties, or direction of the Court, all or any of the documents set forth in subdivision IV hereof, shall be printed as part of the printed transcript of record, in the United States Circuit Court of Appeals, or United States Supreme Court, as the case may be.

Dated and signed on November 1st, 1899.

JOSEPH H. CALL,
Special Assistant U. S. Attorney.

WM. SINGER, Jr, and
W. H. H. HART,
Attorneys for the Defendants.

[Endorsed]: Con'd No. 675. U. S. Circuit Court, 9th Circuit, Southern District of California. United States vs. Southern Pacific Railroad Co. et al. Stipulation. Filed Nov. 7, 1899. Wm. M. Van Dyke, Clerk. Wm. Singer, Jr., rooms 61-2, Union Trust Building, *N. E. cor. 2nd and Mission Sts.*, San Francisco, Cal., Atty. for Def'ts.

At a stated term, to wit, the August Term, A. D. 1899, of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, held at the courtroom in the City of Los Angeles, on Monday, the eighteenth day of December, in the year of our Lord one thousand eight hundred and ninety-nine. Present: The Honorable ERSKINE M. ROSS, Circuit Judge.

Consolidated No. 675.

No. 675.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

No. 587.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

No. 662.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

Order That Certain Original Documents be Sent Up with Transcript.

Pursuant to the stipulation signed by the attorneys for the respective parties, on file herein, it is ordered that the following original documents forming part of the evidence in this cause, being necessary to inspection by the United States Circuit Court of Appeals for the Ninth Circuit, and by the Supreme Court of the United States if appealed thereto, shall be sent up as original documents with the transcript of the record in accordance with subdivision 4 of rule 14 of the rules of the United States Circuit Court of Appeals for the Ninth Circuit, and subdivision 4 of rule 8 of the rules of the Supreme Court, to wit:

Plaintiffs' Exhibit No. 2, being map of general route of the Texas Pacific railroad, filed with the secretary of the interior on September 2nd, 1871.

Plaintiffs' Exhibits Nos. 4, 5, 6, 7, and 8, being certified copies of certain township plats.

Defendants' Exhibit No. 24, being map of the 4th section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on March 1st, 1877.

Defendants' Exhibit No. 25, being map of the 1st section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on May 8th, 1874.

Defendants' Exhibit No. 26, being map of the 2nd section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on November 8th, 1875.

Defendants' Exhibit No. 27, being map of the 3rd section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on July 10th, 1876.

Defendants' Exhibit No. 28, being maps of the 5th section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior, with the commissioners' report upon said section, on January 17th, 1878.

Defendants' Exhibits Nos. 38, 39, 40, 41 and 42, being maps of permanent withdrawal, with 20-mile and 30-mile limit lines adjusted to the lines shown on the said maps, Defendants' Exhibits Nos. 24, 25, 26, 27, and 28.

Defendants' Exhibit No. 77, being map of the State of California, issued by the commissioner of the general landoffice.

The said original exhibits to be delivered to the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, to be returned to the files of this cause in

this court upon the final determination of the appeal herein by the United States Circuit Court of Appeals or by the Supreme Court of the United States, if appealed thereto.

In the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California.

Consolidated No. 675.

No. 675.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

No. 587.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY, D. O. MILLS and HOMER S. KING, Trustees, and THE CENTRAL TRUST COMPANY OF NEW YORK, THE SOUTHERN PACIFIC COMPANY OF KENTUCKY, THE COLORADO RIVER IRRIGATION COMPANY,

Defendants.

No. 662.

THE UNITED STATES OF AMERICA,

Complainants,

vs.

THE SOUTHERN PACIFIC RAILROAD COMPANY,

Defendant.

Clerk's Certificate to Transcript.

I, Wm. M. Van Dyke, clerk of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, do hereby certify the foregoing two thousand one hundred and fifty-three written and printed pages, numbered from 1 to 2,153, inclusive, and comprised in eight (8) volumes, numbered respectively volumes 1, 2, 3, 4, 5, 6, 7, and 8, including diagrams, maps and plats (excepting therefrom original exhibits, viz: Plaintiffs' Exhibit No. 2, being map of general route of the Texas Pacific railroad, filed with the secretary of the interior on September 2nd, 1871; Plaintiffs' Exhibits Nos. 4, 5, 6, 7, and 8, being certified copies of certain township plats; Defendants' Exhibit No. 24, being map of the 4th section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on March 1st, 1877; Defendants' Exhibit No. 25, being map of the 1st section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on May 8th, 1874; Defendants' Exhibit

No. 26, being map of the 2nd section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on November 8th, 1875; Defendants' Exhibit No. 27, being map of the 3rd section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioners' report upon said section, on July 10th, 1876; Defendants' Exhibit No. 28, being map of the 5th section of the Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commisioners' report upon said section, on Jannary 17th, 1878; Defendants' Exhibits Nos. 38, 39, 40, 41, and 42, being maps of permanent withdrawal with 20-mile and 30-mile limit lines adjusted to the lines shown on the said maps Defendants' Exhibits Nos. 24, 25, 26, 27, and 28; Defendants' Exhibit No. 77, being map of the State of California, issued by the commissioner of the general landoffice, which said original exhibits are by order of Court transmitted herewith and made a part hereof; and also excepting certain documents, comprising certain of the pleadings filed, and portions of the evidence introduced, which are omitted from the transcript pursuant to the stipulation of the parties hereinbefore set forth), to be a full, true, and correct copy of the record, pleadings, papers, opinions of the Court, assignment of errors, and of all proceedings in the above and therein entitled cause, and that the same together constitute the transcript of the record on appeal to the United States Circuit Court of Appeals for the Ninth Cir-

cuit, in said cause, under and pursuant to said stipulation.

I do further certify that the cost of the foregoing record is $1,663.20, the amount whereof is to be paid me by the Southern Pacific Railroad Company, one of the appellants in said cause.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California, this thirtieth day of December, in the year of our Lord one thousand eight hundred and ninety-nine, and of the independence of the United States the one hundred and twenty-fourth.

[Seal] WM. M. VAN DYKE,

Clerk of the Circuit Court of the United States of America, of the Ninth Judicial Circuit, in and for the Southern District of California.

[Ten Cent U. S. Int. Rev. Stamp Canceled.]

[Endorsed]: No. 584. In the United States Circuit Court of Appeals for the Ninth Circuit. The Southern Pacific Railroad Company et al., Appellants, vs. The United States of America, Appellees. Transcript on Appeal. Appeal from the Circuit Court of the United States for the Southern District of California.

Filed January 15, 1900.

F. D. MONCKTON,

Clerk.

2440

PROCEEDINGS

IN THE

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE NINTH CIRCUIT.

In the United States Circuit Court of Appeals, for the Ninth Circuit.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,
vs.
THE UNITED STATES OF AMERICA,
Appellees.
No. 584.

THE UNITED STATES OF AMERICA,
Appellants,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellees.
No. 588.

Opinion (U. S. C. C. A).

Appeal from the Circuit Court of the United States for the Southern District of California.

JOSEPH H. CALL, for the United States.

WM. SINGER, Jr., for Southern Pacific Railroad Company.

WM. F. HERRIN, of Counsel.

Before GILBERT and MORROW, Circuit Judges, and HAWLEY, District Judge.

HAWLEY, District Judge, delivered the opinion of the Court.—The general history, character, and nature of these suits is fully stated in the opinion of the Circuit Court in United States vs. Southern Pacific Company, 94 Fed. 427, to which reference is here made. It appears therefrom that three separate independent suits were instituted by the United States against the Southern Pacific Railroad Company, for the purpose of determining the title to certain odd-numbered sections of land within the twenty and thirty mile limits of the grant made by the United States to the Southern Pacific Railroad Company by act of Congress of March 3, 1871, which lands are also within twenty miles of the general route of the Texas Pacific Railroad Company, as indicated by its map thereof filed in the office of the secretary of the interior or within thirty miles of the alleged definite location of the Texas Pacific Railroad Company from Yuma on the Colorado river, by way of San Gorgonio Pass to San Diego, California, to cancel such patents as had theretofore been issued by the Government of the United States to the Southern Pacific Railroad Company under the grant of March 3, 1871, and to quiet the complainant's title to all of the lands referred to. Pending the preliminary stages of the proceedings in these cases, the Court, upon the filing of a stipulation by the respective counsel, made an order consolidating the suits. After the consolidation the Government, on May 26, 1896, filed an amended and supplemental bill of complaint in which issue was thereafter duly joined, and the suit tried. Prior to the submission of the cause in the Circuit Court, the Gov-

ernment dismissed the suit in so far as it concerned all of the lands mentioned for which patents had been issued by it, except about five thousand acres, which the Southern Pacific Railroad Company had contracted to sell to the Colorado River Irrigation Company, a party defendant herein. The suit as submitted to the Circuit Court involved those five thousand acres, and all of the unpatented odd-numbered sections of land embraced within the primary and indemnity limits of the Southern Pacific Company's grant of March 3, 1871, that are also within twenty miles of the general route of the Texas Pacific Company, as indicated by its maps thereof, filed in the general land office, or within thirty miles of the asserted definite location of the Texas Pacific Railroad from Yuma, by way of San Gorgonio Pass to San Diego, California. The Circuit Court, upon the hearing of the case, held that the United States were entitled to a decree for the lands within the twenty mile limits of the map of general route, filed in 1871 by the Texas Pacific Railroad Company, which were reserved by executive orders in October, 1871, which lands are unpatented. As to the remainder of the lands described in the bill, including a quarter section claimed by one Crawford, as a homestead, the Court adjudged that the Government take nothing, and a decree to that effect was duly entered.

From this decree the Southern Pacific Railroad Company, and the other defendants, appealed and assigned as error that the Court erred in deciding that the United States are the owners by title in fee simple absolute,

or the owners in anywise of the lands or any part thereof, described in the first subdivision of the decree. From that part of the decree against the United States, as to the lands embraced by the bill, other than those reserved in the act of 1871 for the Texas Pacific Railroad Company, the United States took a cross-appeal, and made the following assignment of errors:

1. "The Court erred in refusing to adjudge that the United States was the owner by title absolute and in fee of the lands described in the bill situated outside of the twenty mile limits of the line of route of the Texas Pacific Railway Company, shown by the map filed by said company on October 15, 1871.

2. It being the intention of Congress, by the act of March 3, 1871, to exclude and except from the grant to the Southern Pacific Railroad Company, made by the act of March 3, 1871, all of the lands to which the Texas Pacific Railway Company had a present or prospective right, to wit, the lands within forty miles of the line of route of said Texas Pacific Railway Company, as definitely fixed, the Court erred in adjudging that the United States was not entitled to a decree for the lands within forty miles of the line of route surveyed and fixed upon for construction by said company from Fort Yuma on the Colorado, via San Gorgonio Pass, to the bay of San Diego, as more fully described in the annual report of said company to the secretary of the interior for the year ending June 30, 1874, and erred in refusing to annul all patents issued to said Southern Pacific Railroad Company for such lands.

3. It being the intention of Congress to exclude and except from the Southern Pacific grant of March 3, 1871, all the lands designated by odd-numbered sections within the forty-mile limits of the line of route of the Texas Pacific Company between the Colorado river and the Pacific Ocean, the Court erred in refusing to grant to the United States a decree quieting its title and annulling patents issued to all or any of the lands within forty miles of the line of route of the Texas Pacific Railway Company between the Colorado river and the Pacific Ocean, as designated and fixed in section 1 of said act of March 3, 1871, to wit, from 'a point on the Rio Colorado at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to Ship's Channel in the bay of San Diego, in the State of California, pursuing in the location thereof as near as may be the thirty-second parallel of north latitude.'

4. The Court erred in adjudging defendant Colorado River Irrigation Company to be a bona fide purchaser from the Southern Pacific Railway Company for any of the lands described in the bill for which this suit is brought.

5. As to the northwest quarter of section 17, township 7 south, range 3 east, as to which tract the Court dismissed the bill it appearing that said land is outside of the granted limits of the grant to the Southern Pacific Railroad Company, and that said tract was settled upon as a homestead on August 1, 1887, by one Joseph Crawford, he being duly qualified, and he having a valid, sub-

sisting, and unexpired settlement right upon said land under the homestead law, upon October 3, 1887, when said Southern Pacific Railroad Company selected said land as indemnity, the Court erred in refusing to grant the United States a decree annulling the patent and certification of said land to said company."

Both parties claim grants of land under the provisions of the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes." (16 Stat. 573.) Section 1 of this act provides for the incorporation of the Texas Pacific Railroad Company, and authorized it to lay out, "locate, construct, furnish, maintain and enjoy a continuous railroad and telegraph line, with the appurtenances, from a point at or near Marshall, county of Harrison, State of Texas; thence by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona, to a point on the Rio Colorado, at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to Ship's Channel, in the bay of San Diego, in the State of California, pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act."

Section 9 provides as follows: "That for the purpose of

aiding in the construction of the railroad and telegraph line herein provided for, there is hereby granted to the said Texas Pacific Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as such line may be adopted by said company, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad in California, where the same shall not have been sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached at the time the line of said road is definitely fixed. In case any of said lands shall have been sold, reserved, occupied, or pre-empted, or otherwise disposed of, other lands shall be selected in lieu thereof by said company, under the direction of the secretary of the interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections first above named, and not including the reserved numbers."

Section 12 provides as follows: "That whenever the said company shall complete the first and each succeeding section of twenty consecutive miles of said railroad and put it in running order as a first-class road in all its appointments, it shall be the duty of the secretary of the interior to cause patents to be issued conveying to said company the number of sections of land opposite to and coterminous with said completed road to which it shall be entitled for each section so completed. Said company, within two years after the passage of this act, shall

designate the general route of its said road, as near as may be, and shall file a map of the same in the department of the interior; and when the map is so filed, the secretary of the interior, immediately thereafter, shall cause the lands within forty miles on each side of said designated route within the territories, and twenty miles within the State of California, to be withdrawn from preemption, private entry, and sale."

Section 13 of the act provides "that the president of the company shall annually, by the first day of July, make a report and file it with the secretary of the interior, which report shall be under oath, exhibiting the financial situation of the company, the amount of money received and expended, and the number of miles of road constructed each year. * * * A description of the lines of road surveyed and fixed upon for construction."

The grant to the Southern Pacific Railroad Company is made in section 23 of this act, which reads as follows: "That, for the purpose of connecting the Texas Pacific railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions and conditions as were granted to said Southern Pacific Railroad Company of California, by the act of July twenty-seven, eighteen hundred and sixty-six; provided, however, that this section shall in no way af-

fect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company."

The record shows that the Texas Pacific Railroad Company, on August 15, 1871, filed a map of its general route from a point in Texas to the bay of San Diego, showing the line of route, designated as the "direct line." That the Southern Pacific Railroad Company on April 3, 1871, filed a map of its general route from Tehachapi Pass via Los Angeles to the Colorado river at a point near Yuma.

1. Had the Texas Pacific Railroad Company, or any other railroad company, acquired any present or prospective right, to any of the lands embraced in this suit, at the time the grant was made by the Government to the Southern Pacific Railroad Company, March 3, 1871? The answer to this question will dispose of the appeal taken herein by the Southern Pacific Company, and will be found in the opinion of the Court in United States vs. Colton Marble and Lime Company, 146 U. S. 615. It is true that in that case the Court confined itself to the conflicting claims of the Southern Pacific and the Atlantic and Pacific Company; but by reference to the provisos in the grant to the Southern Pacific, it will be seen that it also includes "present or prospective" rights of "any other railroad company" and it therefore necessarily follows that the views expressed by the Supreme Court in that case apply with equal force to the conflicting claims, if any, between the Southern Pacific and the Texas Pacific; because whatever rights the Texas Pa-

cific Company ever acquired to any of the lands in question continued to exist until the act of forfeiture passed by Congress February 28, 1885, and as long before that time the Southern Pacific Company had built the road it was authorized to construct, and filed in the general land office maps showing its definite location, it necessarily follows, that if at the latter date the lands in suit, or any of them, were for any reason reserved, or were lands the Texas Pacific Company had acquired a present or prospective right, such lands did not pass to the Southern Pacific Company under its grant. For as to such lands the Texas Pacific Company certainly had a "prospective," if it did not have a "present right." Inasmuch as the grants to the Southern Pacific and Texas Pacific Railroad Companies were given by the same act, and of the same date, the ordinary and usual rule would be to give each of said companies one-half of such lands as were within both grants. But the case under consideration is taken out of the ordinary rule, by the proviso annexed to the grant to the Southern Pacific Company.

In United States vs. Colton Marble and Lime Company (supra), the Court speaking of a similar proviso said: "What is the significance of this proviso? * * * It cannot be supposed that this proviso was meaningless, and that Congress intended nothing by it. Carefully inserted, in a way to distinguish this grant from ordinary, later and conflicting grants, it must be held that Congress meant by it to impose limitations and restrictions different from those generally imposed in such cases, and it in sub-

stancedeclared that the Southern Pacific Company should not in any event take lands to which any other company had at the time a present or prospective right. * * * What were the prospective rights of the Atlantic and Pacific Company? Of course, it could not be known at the time of the passage of the later act exactly where the lines of the two companies would be located, and where the point of crossing would be. Neither could it then be known that there would be any deficiency in the granted lands at the point of crossing, or that, if such deficiency existed, it would require all the indemnity lands to make good the loss. It might well be assumed that very likely the Atlantic and Pacific Company would be called upon to select from the indemnity lands a portion sufficient to make good the deficiency, in the granted limits. That right of selection was a prospective right, and if it was to be fully exercised, no adverse title could be created to any lands within the indemnity limits. Suppose, for instance, it should turn out that only half of the indemnity lands were necessary to make good the deficiency, and that one-half of such lands were well watered and valuable, while the remainder were arid and comparatively valueless, obviously the right of selection would be seriously impaired if it were limited to only the arid and valueless tracts. In fact, every withdrawal of lands from the aggregate of those from which selection could be made would more or less impair the value of the right of selection. The only way in which force can be given to this proviso is to hold that the indemnity lands of the Atlantic and Pacific were exempted

from the grant to the Southern Pacific, for, if not exempted, the former company's prospective right of selection would be to that extent impaired."

This disposes of the appeal taken by the Southern Pacific Company, which only covers a small portion of the land in controversy.

The decree of the Circuit Court in relation to these lands is correct and will be affirmed.

2. We will now proceed to consider the questions raised in the appeal taken by the United States (which covers a much greater part of the lands involved herein), and relates to the lands that are embraced within the primary and indemnity limits of what appellants contend was the definite location of the route of the Texas Pacific Railroad Company, extending from Yuma by way of San Gorgonio Pass to San Diego.

On the other hand, it is insisted by the Southern Pacific Company that the Texas Pacific Company never had the right to construct, build, or locate any railroad from Yuma to San Diego by way of San Gorgonio Pass, and that as a matter of fact it never did definitely locate any such road. Was the line of the Texas Pacific Railroad Company ever definitely located and fixed, or authorized to be built by said company under the acts of Congress? Unless both of these propositions are affirmatively established by the evidence, it follows that the decree of the Circuit Court in favor of the Southern Pacific Company as to these lands must be affirmed. The questions involved are important and demand a careful and searching review of the evidence, as well as of the general

principles of law applicable thereto. In the consideration of these questions, it must be remembered that it is conceded by both parties that the Southern Pacific Company fully performed the conditions of the granting act. The record clearly shows that it fully completed its railroad along the proposed route, and earned the lands granted by the act.

It is admitted that the lands involved herein are all within the limits of said grant, unless excepted therefrom by the Texas Pacific grant. It is also admitted that the Texas Pacific Company never constructed or built the road authorized by Congress. The contention of the Government is that the lands in question, which were granted to the Texas Pacific Railroad Company by the act of March 3, 1871 (16 Stat. 573), were restored to the Government by the provisions of the act of February 28, 1885 (23 Stat. 337), forfeiting the grant for failure to construct a railroad in aid of which the grant was made, and that no right or title attached to said lands under the land grant of the Southern Pacific Company.

The contention of the appellee is that the Texas Pacific Company was not authorized to construct any railroad which could, in any manner, vest in it any right or interest in the lands in controversy (except a small quantity mentioned in the opinion of the lower Court), and as a matter of fact, established by the evidence, it never did definitely locate and fix any line of railroad, or acquire any right whatever to any lands in California; and that its grant at no time affected the status of any lands in this State.

By examining the first section of the act creating the Texas Pacific Railroad, it will be observed that it is specifically authorized to construct a continuous railroad from and to certain designated points. It is divided into three sections, the requirements as to each section of the line of road are to some extent distinct from the others. From Marshall to El Paso the requirement is that it shall be "by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north latitude." From El Paso to Yuma it is to be "by the most direct and eligible route to be selected by said company." From Yuma to San Diego, it must be "by the most direct and eligible route * * * pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude."

With reference to the question whether the line of the Texas Pacific Railroad was ever definitely fixed from Ft. Yuma to San Diego through the San Gorgonio Pass, it appears that in the year 1872 and 1873, the Texas Pacific Company caused numerous surveys, of the different lines between the Colorado river and San Diego to be made, by its chief engineer, General G. M. Dodge, and division engineers J. A. Evans and Joseph U. Crawford. The general results of these various surveys are embodied in a report made by the chief engineer to the president of the Texas Pacific Railroad Company on March 12, 1873, for the purpose of imparting sufficient information to enable the board of directors of said corporation "to determine upon the general route from San Diego east."

The lines examined by the engineers are briefly stated in the report as follows: "The lines examined are as follows: The direct line from San Diego to Ft. Yuma, known as the 'Otay Valley Line,' 203 11-100 miles long. The San Gorgonio Pass lines, numbered 1 to 4, marked 'Main Line,' and 'A, B, C, D,' on maps. No. 1. Main line, 313 miles long. No. 2. The coast line, via Temecula creek to the main line; thence by main line to the pass—308 73-100 miles. No. 3. The coast line to Temecula; thence the main line to La Laguna; thence up the San Jacinto river and San Bernardino, 302 miles. No. 4. The coast line; thence Temecula creek; thence line D direct to San Gorgonio Pass—270 miles."

This report is copied at greater length in the opinion of the Circuit Court, in which the prominent features of each line are fully set forth, and to which reference is here made.

The report made by General Dodge was submitted by the president of the company to the board of directors and on April 4, 1873, the board adopted the following resolution: "On motion it was resolved that the line by San Gorgonio Pass known as 'No. 4,' be, and the same is hereby, adopted as the route from San Diego, with such modifications as in the judgment of the president may be to the best interests of the company."

We do not understand the Government to claim that this resolution definitely fixed the line by San Gorgonio Pass. Of course, it could not do so. At most, it can only be considered as expressing a willingness on the part of the directors to adopt that line provided the

president of the company should, in his judgment, deem it to be to the best interests of the company so to do. It is apparent that no railroad could be definitely located by a resolution made subject to such modifications or provisos. But it is earnestly argued that the line of road was definitely fixed and located by the report of General Dodge as chief engineer made in May, 1874, and it is claimed that this report gives an accurate description of the line. It reads as follows: "Beginning at Fort Yuma, from there the line runs in a northwesterly direction, passing to the north of the sand hill and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert; leaving the mud volcanoes about five miles to the south, and the Dos Palmos stage station about the same distance to the north we reach the Cabazon valley 113 miles from Ft. Yuma; thence on nearly the same course 50 miles, to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station and one mile south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto which is known as the Potrero (or Pocket) of the San Jacinto, to the

San Jacinto Plains and Temecula Plains. These plains lie between the main range and the Santa Ana range, and down the Temucula Plains to the head of the Temecula canyon, and down the canyon where the Temecula breaks through the Santa Ana range, 10 miles to the open valley, striking the coast near the (13) San Coronado ranges, about 40 miles north of San Diego; then south and down the coast on the western slope of the Soledad mountains, crossing the Soledad, San Luis Rey, San Dieguito, the ravine of La Jolla, skirting False bay; then to the shore of San Diego bay, and along the shore of the bay to the depot grounds of the Texas Pacific Railway below the Pacific Steamship Company's wharf. Distance from the Pima villages on the Gila river, 444.4 miles."

In this report General Dodge says that, "since July, 1872, the surveys have been extended from the Red river, in Texas, to the Pacific Ocean, in the general direction of the 32 parallel of latitude, exploring a country 200 miles in width, developing its resources, bringing to light its hidden treasures, and fully demonstrating its capability for building and sustaining a railroad to the Pacific Ocean. The country has been systematically developed. Explorations been have pushed to success, and one after another of the engineering obstacles supposed to exist to the building of the Southern Pacific Railway have been met and overcome; the route of the road has been definitely fixed, and unquestionably is the best to be had across the continent in the zone which has been explored."

We are unable to agree with the learned counsel for the Government that this report definitely locates the line of the road. The language is too general and indefinite for any such purpose. The law certainly requires some further action on the part of the company to show that this route had been so definitely fixed as to put it beyond the power of the company to change it. No force or effect whatever can be given to the statement of the chief engineer that "the route of the road has been definitely fixed." The statute nowhere declares that the opinion of such an officer shall be sufficient to show that the railroad line has been "definitely fixed."

Some stress is also made upon the fact that in the annual report of the Texas Pacific Railroad to the United States for the fiscal year ending June 30, 1876, it is said: "A full description of the line of road surveyed and fixed upon for construction was given in the report made to the department of the interior, July 1, 1874." This report (like several others contained in the record) is required to be made by section 13 of the act of 1871. The provisions of which, it will be observed, are principally concerning matters of a financial nature. There is nothing contained therein which could, by any consistent course of reasoning, be claimed to excuse the railroad company from making a definite location of the road. If the road had not been definitely located, it is difficult to see how any statement in such report could so "fix" it. The land grant must be controlled by the facts, not by the financial reports filed by the company

under and in compliance with the provisions of section 13. It could not, we apprehend, be seriously argued, that the mere filing of such reports would earn, or the failure to file them forfeit, the land grants contained in the other section of the act.

There are certain maps attached to some of the reports made to the secretary of the interior of an uncertain and indefinite nature which are, in our opinion, wholly insufficient to fix the definite location of the railroad on any of the surveyed lines, or entitle them to be designated as maps of the general route. But they are, nevertheless, claimed by counsel for appellant to be, of themselves, sufficient to protect the rights of the Texas Pacific. None of the maps are sufficient of themselves to withdraw the lands, so as to prevent the Southern Pacific Company from earning the lands granted to it at any time prior to a date of the filing of a map of definite location by the Texas Pacific Company. A map "of a general route" is not of itself sufficient for that purpose.

In United States vs. Oregon and California Railroad Company, 176 U. S. 28, 43, 46, the Court, in discussing matters applicable as well to this, as to that, case, among other things said: "If, therefore, the Perham map of 1865 were conceded for the purposes of the present discussion to have been sufficient as a map of 'general route'—and nothing more can possibly be claimed for it—these lands could not be regarded as having been brought by that map (even if it had been accepted) within the grant to the Northern Pacific Railroad Com-

pany, and thereby have become so segregated from the public domain as to preclude the possibility of their being earned by other railroad companies under statutes enacted by Congress after the filing of that map and before any definite location by the company of its line."

The Court, after calling attention to some general expressions used by Mr. Justice Field in Buttz vs. Northern Pacific Railroad Company, 119 U. S. 55, 71, 72, said: "This language was too broad if it is construed to express the thought that public lands, when within the exterior lines of a 'general route,' are 'appropriated' from the time the map of such route is filed, so as to prevent them from being granted by Congress to and from being earned by another railroad corporation prior to the filing of a map of definite location by the company designating such general route. In Northern Pacific Railroad v. Sanders, 166 U. S. 620, 634, 635, 636, this Court, referring to the act of July 2, 1864, said: 'The company acquired, by fixing its general route, only an inchoate right to the odd-numbered sections granted by Congress, and no right attached to any specific section until the road was definitely located and the map thereof filed and accepted. Until such definite location it was competent for Congress to dispose of the public lands on the general route of the road as it saw proper. * * * We take it, then, to be indisputable that even if the Perham map of 1865 were regarded as a sufficient map of the 'general route' of the Northern Pacific Railroad, and not, to use the language of Judge Ross in this case, a mere sketch or diagram unauthenticated by any engineer or officer

charged with the duty of designating such a route, nothing stood in the way of Congress granting to another railroad company any lands within the exterior lines of that route, by a statute passed after such map was filed in the land department, and before a definite location of the Northern Pacific Railroad."

There are divers other facts and circumstances contained in the lengthy record in this case which are referred to in the brief filed by the special United States attorney, which are, in connection with the reports of General Dodge, claimed to be sufficient to establish the proposition that the line of said road had been "definitely fixed" within the meaning of those words as used in section 9 of the act of March 3, 1871.

We have carefully examined the record upon all of the points relied upon by the learned counsel, and have arrived at the conclusion that there is no sufficient evidence to support this contention. The subsequent reports and testimony of the various officers, engineers, and employees of the railroad company, in our opinion, clearly show that the line of the railroad was not definitely located in 1874, or at any time prior thereto. True it is that it seems to have been "definitely fixed" in the mind of the chief engineer; but it had not been "definitely fixed" on the face of the earth; nor in any other manner sufficient to comply with the provisions of the statute. No line of a railroad can be considered as definitely fixed unless it has, by some action which is binding upon the company and the Government, ceased to be the subject of change at the mere volition of the railroad company. In so far as the object and purposes

of the grant of lands mentioned in the statute is concerned, it must affirmatively appear that the line of the road has been so definitely located and fixed that it cannot thereafter be the subject of any change in the route so as to affect the rights of any other parties. It is true that the line in question was surveyed, in connection with several other routes; but the definite location of the road on one of the surveyed lines was an act to be performed by the railroad company. It was to select for itself the definite line of location upon which its road was to be built, and under the general principles of the law upon this subject it is required to report its action to the Government by filing a map of its definite location in the usual and proper manner.

Van Wyck vs. Knevals, 106 U. S. 360, 366;

Sioux City Land Co. vs. Griffey, 143 U. S. 32, 38, and authorities there cited;

St. Paul M. & M. Ry. Co. vs. Sage, 71 Fed. 40, 48-50.

In Tarpey vs. Madsen 178 U. S. 215, 228, the Court, in discussing the rights of the railroad company and individual entrymen, announced certain general principles that are directly applicable here. The Court said: "Recapitulating, we are of opinion that a proper interpretation of the acts of Congress making railroad grants like the one in question requires that the relative rights of the company and an individual entryman, must be determined, not by the act of the company in itself fixing definitely the line of its road, or by the mere occupancy of the individual, but by record evidence, on the one part the filing of the map in the office of the secretary of the

interior, and, on the other, the declaration or entry in the local land office. In this way matters resting on oral testimony are eliminated, a certainty and definiteness is given to the rights of each, the grant becomes fixed and definite."

But even if it could be held, as contended for by appellant's counsel, that it was not required to file such map because not specifically provided for by the language of the statute, then it certainly must make other sufficient proofs of the time and manner in which the line of location was "definitely fixed" in order to bind all parties claiming any rights to said lands.

The evidence in the record, taken in its entirety upon this point, in our opinion, clearly shows that the line of the Texas Pacific Railroad from Fort Worth by way of San Gorgonio Pass to San Diego, was never, in any manner known to the law, definitely fixed.

The testimony of J. U. Crowford is to the effect that in 1877 he met General Dodge, John C. Brown, then vice-president of the Texas Pacific Company, and Mr. Frank Bond, who was also an official of said company, in Washington, D. C.; that at that time the Texas Pacific Company was seeking aid from the Government "to construct the railroad upon the thirty-second parallel"; that in the year 1877 he got a telegram from Mr. Bond to go to San Diego and try to reduce the quantities upon the direct line surveyed by Reno; that the Southern Pacific Company occupied the San Gorgonio Pass in 1877; that he was representing San Diego at that time; that the people of that city "thought they would be cut off, and

we were representing them; you notice the report of the committee states that San Diego had more merits in its argument than anywhere else. You will find we made a strong fight to connect San Diego by the direct line. It was a fight for aid and a fight for life for San Diego." It further appears from the record that in 1878 Mr. Brown, the vice-president, in addressing the committee on Texas Pacific Railroad, among other things, said: "I wish to state, in reply to Mr. Huntington, when he says that Colonel Scott, two years ago, declared that the road could not be constructed over the direct route from Yuma to San Diego, that we have since that time had skillful and intelligent engineers to go over that country, and they have explored canyons and passes not before examined by our engineers and revised the former line; and they report that the direct line is entirely practicable, and that it can be built at much less cost than similar work done on the Southern Pacific or Central Pacific roads. * * * There are thirty miles of this route which will be very expensive; some of it may cost $250,000 to $300,000 per mile; but the average will not exceed $36,000 per mile."

Does not this testimony clearly show that no definite location of the road had been made? Why seek aid or make new surveys of the direct line on the thirty-second parallel, if three years prior to that time the road had been definitely fixed on the other route?

It follows from the conclusions we have reached upon this point that the lands granted to the Southern Pacific Company by the act of 1871 have never been excluded

therefrom by reason of any definite location of the Texas Pacific Railroad.

3. The other ground relied upon by appellees is equally as well established, and leads to the same result.

Was the Texas Pacific Railroad Company ever authorized to build the line of road we have been discussing? We are of opinion it was not. It is admitted that the Otay line, referred to in the report of the chief engineer on March 12, 1873, is a direct line from Yuma to San Diego. It substantially conforms to the line designated by the company on the map of the general route which was filed with the secretary of the interior to which we have heretofore referred. It is also a line which substantially conforms with the general description of the route as mentioned in section one of the act of March 3, 1871, upon which the Texas Pacific Company was authorized to construct and build its road. It follows the description given in the act "pursuing in the location thereof as near as may be the thirty-second parallel of north latitude," while the line in controversy starting from Yuma runs about 163 miles in a northwesterly direction to the summit of San Gorgonio Pass near the thirty-fourth parallel of north latitude; thence runs southwesterly to the Pacific Coast; thence south 40 miles along the coast to San Diego. Instead of pursuing "as near as may be the thirty-second parallel of north latitude," the line for a considerable distance pursues "as near as may be" the thirty-fourth parallel of north latitude. Moreover, the act, in section 23, granting lands to the Southern Pacific Railroad Company, "for the purpose of connecting the

Texas Pacific Railroad with the city of San Francisco" authorized the Southern Pacific Company to construct a line of railroad "from a point at or near Tehachapi Pass by way of Los Angeles to the Texas Pacific Railroad, at or near the Colorado river." It was never intended by Congress, in the passage of the act of March 3, 1871, that the respective railroads should run parallel with each other. They were to meet at a point near the Colorado river; yet the line of the Texas Pacific from Yuma to San Gorgonio Pass practically parallels the Southern Pacific road. We are of opinion that the Texas Pacific Company had no authority under the act of March 3, 1871, or supplemental act of May 2, 1872 (17 Stat. 59), to build any road on the line in question. The act of 1871 in its description of the general route is similar to the act of July 2, 1864 (13 Stat. 365), granting lands to the Northern Pacific Railroad Company.

In United States vs. Northern Pacific Railroad Co., 152 U. S. 284, 292, the Court, in considering the question whether that act contained a grant of lands in aid of the construction by the Northern Pacific Railroad Company of a railroad from Portland to Puget Sound, said: "Although that act allowed the company to adopt the most eligible route within the territory of the United States north of the forty-fifth degree of latitude, it is clear that Congress contemplated the construction of a main trunk line between Lake Superior and Puget Sound, which would not touch any point 'at or near Portland,' and the western end of which would be east and northeast of a direct line between Portland and Puget Sound,

and, in addition, a branch line leaving the main trunk line, at some suitable place, not more than three hundred miles from its western terminus, and extending 'via the valley of the Columbia river to a point at or near Portland.' If the main line, as originally indicated by the act of 1864, had been established on the route between Portland and Puget Sound, the branch line could not have left the main line at some point not more than three hundred miles from its western terminus, and extended via the valley of Columbia river to a point at or near Portland. The authority given to the company to adopt the most eligible route did not authorize it, by a map of general route, to cover an unlimited extent of country, north of the forty-fifth degree of latitude. On the contrary, as is said in St. Paul & Pacific Railroad vs. Northern Pacific Railroad, 139 U. S. 1, 13, 'when the termini of a railroad are mentioned, for whose construction a grant is made, the extent of which is dependent upon the distance between those points, the road should be constructed upon the most direct and practicable line. No necessary deviation from such line would be deemed within the contemplation of the grantor, and would be rejected as not in accordance with the grant.' It may be that the indefiniteness of the map of general route presented by the Northern Pacific Railroad Company in 1865 constituted the reason why that map was not accepted by the interior department. Besides, it is not found as a fact in this case that the most eligible railroad route for the main line, between Lake Superior and Puget Sound, looking at the purpose of Congress in

making the grant of 1864, was down the Columbia river and via some point at or near Portland. It is clear that the purpose of Congress, by the act of 1864, was not to connect Portland with Puget Sound by a road established upon the most direct or eligible route between those places; but so far as Portland and its vicinity were concerned, to connect them with the east by a branch road through the valley of the Columbia river, that would strike the main trunk line connecting Puget Sound and Lake Superior. There was no purpose by that act to make a grant of lands for a road to be located and constructed from a point 'at or near Portland' to Puget Sound."

4. The other points raised herein have passed beyond the pale of discussion. The lands patented to the Southern Pacific Company and by it contracted to be sold and conveyed to the defendant Colorado River Irrigation Company are fully protected by the confirmatory act of March 2, 1896 (29 Stat. 42), which supplements that of March 3, 1887 (24 Stat. 556), as was held in the

United States vs. Southern Pacific Co., 86 Fed. 962;
Id., 88 Fed. 832;
Id., 98 Fed. 27;
Id., 98 Fed. 45.

5. That the defendants, trustees of the Southern Pacific Company, have no greater rights in respect to the lands in controversy than has the railroad company is clearly shown by the decision of the Circuit Court in United States vs. Southern Pacific Co., 86 Fed. 962, and authorities above cited.

6. That the land claimed by the defendant Crawford was not subject to settlement by him in 1887, is settled by the principles announced in Hewitt vs. Schultz, recently decided by the Supreme Court.

Upon an examination of the whole case we find no error.

The decree of the Circuit Court is, upon all points, affirmed.

[Endorsed]: Opinion. Filed May 20, 1901. F. D. Monckton, Clerk.

United States Circuit Court of Appeals for the Ninth Circuit.

THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,
vs.
THE UNITED STATES OF AMERICA,
Appellee.
No. 584.

Decree. (U. S. C. C. A.)

Appeal from the Circuit Court of the United States for the Southern District of California.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the Southern District of California, and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed by this Court that the decree of the

said Circuit Court in this cause be, and the same is hereby, affirmed.

[Endorsed]: Decree. Filed and entered May 20, 1901. F. D. Monckton, Clerk.

At a stated term, to wit, the October term, A. D. 1901, of the United States Circuit Court of Appeals for the Ninth Circuit, held at the courtroom, in the city and county of San Francisco, on Monday, the fifth day of August, in the year of our Lord one thousand nine hundred and one. Present: The Honorable WILLIAM W. MORROW, Circuit Judge; Honorable JOHN J. DE HAVEN, District Judge.

THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,
vs.
THE UNITED STATES OF AMERICA,
Appellee.
No. 584.

Order Allowing Appeal to Supreme Court.

On motion of Mr. Wm. Singer, Jr., attorney for the appellants in this cause, it is ordered that an appeal be, and hereby is, allowed the said appellants to the Supreme Court of the United States from the decree of this Court filed and entered herein on May 20th, 1901.

In the United States Circuit Court of Appeals, Ninth Circuit.

IN EQUITY.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants and Appellants,
vs.
UNITED STATES OF AMERICA,
Plaintiff and Appellee.
} No. 584.

Petition for Appeal to Supreme Court of the United States.

The above-named defendants, conceiving themselves aggrieved by the decree made and entered herein on May 20th, 1901, appeal therefrom to the Supreme Court of the United States, for the reasons specified in their assignment of errors filed herewith; and they pray that their appeal may be allowed, and that a transcript of the record, proceedings and papers upon which the said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

Your petitioners further pray that upon giving a good and sufficient bond to be approved by this Court, all proceedings in this cause, and upon the said decree, may be stayed pending their appeal.

WM. SINGER, Jr.,
Attorney for the Defendants.

WM. F. HERRIN,
Counsel for the Defendants.

Order Allowing Appeal and Supersedeas.

The foregoing claim of appeal and prayer for supersedeas are allowed and granted; the supersedeas to take effect upon the filing of a good and sufficient bond in the sum of three thousand dollars, conditioned that the appellants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their appeal good.

It is further ordered that a transcript of the record, proceedings, and papers upon which the said decree was made, under the seal of this Court and the hand of its clerk, be sent to the Supreme Court of the United States.

San Francisco, October 2, 1901.

WM. W. MORROW,
Judge.

[Endorsed]: Petition for Appeal and Order Allowing Appeal, etc. Filed October 2d, 1901. F. D. Monckton, Clerk.

In the United States Circuit Court of Appeals, Ninth Circuit.

IN EQUITY.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants and Appellants,
vs.
UNITED STATES OF AMERICA,
Plaintiff and Appellee.
No. 584.

Assignment of Errors.

The above-named defendants, by the undersigned, their attorney and counsel, in connection with their petition for appeal herein, say that the decree in the above-entitled cause, made and entered on May 20th, 1901, is erroneous and against their just rights in the following particulars; that is to say:

I.

The Court erred in deciding that the United States is the owner, by title in fee-simple absolute, unencumbered, or by any title or at all, of any of the lands described as follows in the decree of the Circuit Court (vol. V., p. 779), affirmed by the said decree of this Court, to wit: All of the sections and parts of sections of land in the State of California, surveyed and unsurveyed, designated by odd numbers, within twenty miles on each side of the line of route of the Texas Pacific Railroad Company,

from a point near Marshall, in the State of Texas, westwardly, to the bay of San Diego, as designated and established by the map of general route filed by said Texas Pacific Railroad Company in the general land office and in the Department of the Interior on the fifteenth day of October, in the year one thousand eight hundred and seventy-one, a copy of which said map was introduced in evidence in this cause, and is now on file herein, and to which map reference is hereby made, in so far as said lands, or any part thereof, are situated within thirty miles on either side of the designated line of route of the Southern Pacific Railroad Company between the Colorado River, at a point near Fort Yuma, and Los Angeles, California, as designated and established by said Southern Pacific Railroad Company by its map designating such line of railroad as located and constructed, and the map designating the fifth section of said railroad through the said lands having been so filed in the Interior Department on the thirty-first day of January, in the year one thousand eight hundred and seventy-eight.

1st. Because, as shown by the evidence, a large portion of the lands so described are odd sections, situated within the primary limits of the land grant made to the defendant Southern Pacific Railroad Company by section 23 of the Act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved on March 3d, 1871, and are not embraced by any exception to the grant of lands thereby made; and the

defendant Southern Pacific Railroad Company duly constructed the railroad contemplated, in aid of which the said grant was made, and fully performed the conditions imposed by the said act of Congress; and the railroad so constructed was duly accepted and approved by the proper officers of the United States. The defendants are, therefore, owners by title in fee simple, absolute and indefeasible, of all the lands in this paragraph referred to.

2d. Because the remainder of the said lands are odd sections, situated within the indemnity limits of the land grant made to the defendant Southern Pacific Railroad Company by the act of Congress mentioned in the next preceding paragraph hereof, and are not embraced by any exception to the grant of lands thereby made; and all the odd sections within the primary limits and indemnity limits of the land grant made to the defendant Southern Pacific Railroad Company by the said act of Congress, not finally disposed of by the United States prior to March 3d, 1871, are insufficient to make or equal the amount of land thereby granted to the defendant Southern Pacific Railroad Company. For these reasons, and the other reasons set forth in the next preceding paragraph hereof, the defendants are also the owners by title in fee simple, absolute and indefeasible, of all the lands referred to in this paragraph.

3d. Because some of the lands referred to in the next preceding paragraph hereof were duly selected by the defendant Southern Pacific Railroad Company, under direction of the Secretary of the Interior, as indemnity

lands granted to it by the said act of Congress. As to all which selected lands the defendants are, for the reasons hereinbefore set forth, entitled to the issue of patents from the United States to the defendant Southern Pacific Railroad Company; and are also entitled to select and receive patents for all of the lands referred to in the 1st and 2d paragraphs hereof, which remain unselected.

4th. Because the defendants D. O. Mills and Homer S. King are trustees under a deed of trust duly made and executed to them on April 1st, 1875, by the defendant Southern Pacific Railroad Company, and the defendant Central Trust Company of New York is trustee under a deed of trust made and executed to it on August 25th, 1888, by the defendant Southern Pacific Railroad Company; which deeds of trust conveyed all of the said lands to secure the payment of, and out of the proceeds of the sale of the lands so conveyed to redeem and pay, a large number of bonds issued and sold by the defendant Southern Pacific Railroad Company for several millions of dollars paid to it by numerous bona fide purchasers thereof, who still hold the bonds so purchased, unpaid. The said trustee defendants are, therefore, bona fide purchasers of all the lands so conveyed to them, and as to such of those lands as have been patented by the United States to the defendant Southern Pacific Railroad Company, the right and title of the said trustee defendants is confirmed by the act of Congress, entitled "An act to provide for the extension of time within which suits may be brought to vacate and annul land patents, and for other purposes," approved on March 2d, 1896.

II.

The Court erred in ordering, adjudging, or decreeing that the defendants, either or any of them, be enjoined or restrained from having or claiming any right, title, or interest in, or lien upon, all or any of the said lands, for the reasons set forth in assignment "I" hereof.

III.

The Court erred in ordering, adjudging, or decreeing that the title to the said lands is quieted in the United States, for the reasons set forth in assignment "I" hereof.

IV.

For the reasons hereinbefore assigned, the Court erred in ordering, adjudging, and decreeing (by affirming the decree of the Circuit Court) "that the parties to these consolidated cases, plaintiffs and defendants shall each pay their own costs"; and in not adjudging that the defendants have and recover their costs.

Wherefore, the defendants (appellants) pray that the said decree be reversed in all the respects and particulars herein assigned and specified as error; and that the said Circuit Court be directed to enter a decree dismissing the bill of complaint of the plaintiff in each and all of the cases mentioned on the title page of the said decree.

WM. SINGER, Jr.,
Attorney for the Defendants.

WM. F. HERRIN,
Counsel for the Defendants.

[Endorsed]: Assignment of Errors. Filed October 2d, 1901. F. D. Monckton, Clerk.

In the United States Circuit Court of Appeals, Ninth Circuit.

IN EQUITY.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants and Appellants,
vs.
UNITED STATES OF AMERICA,
Plaintiff and Appellee.
No. 584.

Bond on Appeal.

We, N. T. Smith and Wm. H. Mills, of the county of San Mateo, and of the city and county of San Francisco, respectively, State of California, are held and firmly bound unto the United States of America, in the sum of three thousand (3,000) dollars, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

The above-named defendants and appellants have been allowed an appeal to the Supreme Court of the United States, and a supersedeas, from the decree entered in the above-entitled Court and cause on May 20th, 1901; and the condition of this obligation is, that if the appellants shall prosecute their said appeal to effect, and answer all damages and costs if they fail to make their

appeal good then this obligation to be void; otherwise to remain in full force.

Dated, signed, and sealed on October 2d, 1901.

N. T. SMITH. [Seal]

WM. H. MILLS. [Seal]

Acknowledged before me on October, , 1901.

[Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

N. T. Smith and Wm. H. Mills, being duly sworn each for himself deposes and says: I am a householder in the Northern District of California, and am worth the sum of three thousand (3,000) dollars, exclusive of property exempt from execution, and over and above all my just debts and liabilities, in property within the said district.

N. T. SMITH.

WM. H. MILLS.

Subscribed and sworn to before me on October 2d, 1901.

[Seal] E. B. RYAN,

Notary Public in and for the City and County of San Francisco, State of California.

The foregoing bond is approved.

WM. W. MORROW,

Judge.

[Endorsed]: Bond on Appeal. Filed October 2d, 1901. F. D. Monckton, Clerk.

United States Circuit Court of Appeals for the Ninth Circuit.

THE SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,
vs.
THE UNITED STATES OF AMERICA,
Appellee.
No. 584.

Certificate of Clerk C. C. A. to Transcript.

I, Frank D. Monckton, Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing two thousand four hundred and seventy-nine (2,479), pages, numbered from one (1) to two thousand four hundred and seventy-nine (2,479), inclusive, to be a true copy of the record and of the assignment of errors, and of all proceedings in the above-entitled case, as the same appear of record in my office, and that the same together constitute the transcript on appeal herein to the Supreme Court of the United States.

Attest my hand and the seal of said United States Circuit Court of Appeals for the Ninth Circuit at San Francisco, California, this 10th day of October, A. D. 1901.

[Seal] F. D. MONCKTON,
Clerk.

Citation.

UNITED STATES OF AMERICA—ss.

To the United States of America, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington, D. C., on November 30, 1901, pursuant to an appeal filed in the clerk's office of the United States Circuit Court of Appeals for the Ninth Circuit, wherein the Southern Pacific Railroad Company and others are appellants, and the United States of America is appellee, to show cause, if any there be, why the decree rendered on May 20th, 1901, by the said United States Circuit Court of Appeals against the appellants, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Given under my hand, at the city of San Francisco, in the Ninth Circuit, on October 2d, 1901.

WM. W. MORROW,
Judge.

Due service of the foregoing citation by copy admitted on October 10th, 1901.

JOSEPH H. CAL[illegible]
Special Assistant United States Attorney, and of Counsel for the Appellee.

[Endorsed]: No. 584. United States Circuit Court of Appeals, Ninth Circuit. Southern Pacific Railroad Co. et al. vs. United States of America. Citation. Filed October 14, 1901. F. D. Monckton, Clerk.

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1902.

No. 190.

THE SOUTHERN PACIFIC RAILROAD COMPANY, ET AL.,
Appellants,

AGAINST

THE UNITED STATES OF AMERICA,
Appellees.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

BRIEF FOR THE APPELLANTS.

Statement.

By the ninth section of the Act of Congress, approved March 3, 1871, and entitled "An Act to Incorporate the Texas Pacific Railroad Company, and to Aid in the Construction of Its

Road, and for Other Purposes" (16 U. S. Stat., 573), a grant of land was given to the Texas Pacific Railroad Company to aid in the construction of a line of railroad from a point at or near Marshall, County of Harrison, State of Texas, to San Diego, in the State of California (Appendix, p. V).

By the twenty-third section of the Texas Pacific Act above referred to a grant of land was given to the Southern Pacific Railroad Company of California, commonly known as the "Branch Line Grant," to aid in the construction of a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado River (Appendix, p. XII). This grant to the Southern Pacific Railroad Company was upon the same terms and conditions as the grant to said railroad company under the eighteenth section of the Atlantic and Pacific Act, approved July 27, 1866 (14 U. S. Stat., 292).

Inasmuch as the proposed railroad, which was to be aided by the grant under section twenty-three of the Texas Pacific Act, would cross the grant to the Atlantic and Pacific Railroad Company, under the prior Act of 1866, a provision was inserted in the twenty-third section of the

Texas Pacific Act, by which it was provided that the grant thereunder to the Southern Pacific Railroad Company should not in any way "affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company."

The grant to the Southern Pacific Railroad Company under the Texas Pacific Act was subject to the terms and conditions of the third section of the Atlantic and Pacific Act (Appendix, p. XIII), which prescribed in a State primary or granted limits, ten alternate sections in width, on each side of the railroad line adopted by the company, and indemnity limits extending ten miles beyond such primary limits.

The Texas Pacific Railroad Company did not file any map of definite location and never built any part of its proposed line of railroad in the State of California, and all lands and rights to lands granted to and conferred upon said railroad company by the Act of March 3, 1871, and situated within the State of California, were forfeited to and resumed by the United States and were restored to the public domain by an Act of Congress, approved February 28, 1885 (23 U. S. Stat., 337; Appendix, p. XV).

After the Texas Pacific Forfeiture Act the Southern Pacific Railroad Company claimed that it was entitled to the lands common to the two contemporaneous grants to the Texas Pacific Railroad Company and to the Southern Pacific Railroad Company under the Act of 1871. It was further claimed by the Southern Pacific Railroad Company that it was entitled to select, in lieu of lands within the primary limits of its grant under the Act of 1871, any of the lands which had been restored by such Forfeiture Act to the public domain upon the principle that the right of the grantee in respect of indemnity lands depended entirely upon the status of such land at the date of selection.

Thereupon and on January 31, 1894, the United States filed in the United States Circuit Court for the Southern District of California the bill of complaint in this suit against the Southern Pacific Railroad Company, and other defendants, seeking to quiet the title of the United States to the lands restored to the public domain by the Texas Pacific Forfeiture Act, and to restrain the Southern Pacific Railroad Company from making any claim thereto (Record, p. 4). Thereafter, and on October 11, 1894, an

amended bill of complaint was filed herein, and the lands referred to in said amended bill of complaint are the sections of land in the State of California designated by odd numbers, within forty miles of the line of route of said Texas Pacific Railroad Company, as shown by the map filed by said company in the General Land Office, to which the Southern Pacific Railroad Company has made any claim under the grant to it by the provisions of the twenty-third section of the Act of March 3, 1871, and the prayer of the amended bill is "that the defendants be perpetually enjoined from having or claiming any right, title or interest in or to said lands from, through or under said Acts of Congress, approved July 27, 1866, or March 3, 1871, or joint resolution of Congress approved June 28, 1870 (Volume 16, U. S. Statutes, p. 382), or any other Act of Congress named or to be named in this bill" (Record, p. 53).

On the 3d day of March, 1898, this cause came on for trial before the Honorable ERSKINE M. ROSS, and on the 24th day of August, 1899, a final decree was entered in the cause enjoining and restraining the Southern Pacific Railroad Company and the other defendants therein from

having or claiming any right, title or interest or incumbrance in, upon, or to, all of the sections and parts of sections of lands in the State of California, surveyed and unsurveyed, designated by odd numbers within 20 miles on each side of the line of route of the Texas Pacific Railroad Company from a point near Marshall, in the State of Texas, westerly to the Bay of San Diego (Record, p. 775). As to the remainder of the lands described in the bill of complaint, it was ordered that the bill of complaint be dismissed, and that the complainant take nothing (Record, pp. 776 and 792).

In his opinion, Judge Ross does not discuss the question of the title of the lands involved upon this appeal, but simply holds that the whole subject has been heretofore disposed of by the decision of this Court in the case of United States vs. Colton Marble & Lime Company, 146 U. S., 615. He says as follows (Record, pp. 818, 819 and 820):

> "As the grants to the Southern Pacific and the Texas Pacific Railroad Companies were made by the same act and of the same date, the usual rule would give to each company one-half of such lands as fell within

both grants. But the present case is taken out of the ordinary rule, as was expressly decided by the Supreme Court in the case of United States v. Colton Marble & Lime Co., 146 U. S. 615, 616, by the proviso annexed to the grant to the Southern Pacific Company; respecting which proviso the Supreme Court, in the case last cited, said: 'It cannot be supposed that this proviso was meaningless, and that Congress intended nothing by it. Carefully inserted, in a way to distinguish this grant from ordinary later and conflicting grants, it must be held that Congress meant by it to impose limitations and restrictions different from those generally imposed in such cases, and it in substance declared that the Southern Pacific Company should not in any event take lands to which any other company had at the time a present or prospective right.' * * *

"The Court was here speaking of the conflicting claims of the Southern Pacific and Atlantic & Pacific Railroad Companies, but, as the proviso to the Southern Pacific grant also includes the 'present or prospective' rights of 'any other railroad company,' it is obvious that the decision of the Supreme Court in the case cited is equally applicable to the conflicting claims of the

Southern Pacific and Texas & Pacific Companies, and that, under that decision, any lands to which the Texas & Pacific Company had a present or prospective right at the time of the filing in the general land-office by the Southern Pacific Company of its map of the definite location of the road it was authorized to build by Section 23 of the act of March 3, 1871, were excluded from the grant thereby made. And as whatever rights the Texas & Pacific Company ever acquired to any of the lands in question continued to exist until the act of forfeiture passed by Congress, February 28, 1885, and as long before that time the Southern Pacific Company had built the road it was authorized to construct, and filed in the general land office maps showing its definite location, it follows that if, at the latter date, the lands in suit, or any of them, were for any reason reserved, or were lands to which the Texas & Pacific Company had acquired a present or prospective right, such lands did not pass to the Southern Pacific Company under its grant.

"The case shows that the Texas & Pacific Railroad Company filed in the office of the secretary of the interior a map of the general route of its road on the 15th day of October,

1871, which map was accepted and approved by the secretary of the interior, and that thereupon an executive order was made withdrawing, for the benefit of that company, all of the public lands in California, designated by odd numbers, falling within 20 miles on either side of that line of its road. To all of such public lands the Texas & Pacific Company certainly had a 'prospective,' if not a 'present,' right, under the decision of the Supreme Court in United States v. Colton Marble & Lime Company, *supra*."

From the final decree entered on August 24, 1899, an appeal was taken by the Southern Pacific Railroad Company, and its co-defendants, to the United States Circuit Court of Appeals for the Ninth Circuit (Record, p. 2423), and it was assigned as error that the Court below erred in deciding that the United States was the owner by title in fee simple absolute, or the owner in any wise of the lands, or any part thereof described in the first sub-division of said decree (Record, p. 2444). The United States took a cross-appeal from said final decree other than the first sub-division thereof (Record, 2444). On the 20th day of May, 1901, a decree was entered in said Court affirming the decree below (Record, p. 2469).

From the decree of said Court of Appeals for the Ninth Circuit the present appeal to this Court has been taken (Record, p. 2471). No cross-appeal in this case has been taken by the Government, and the time for taking any cross-appeal has expired.

Specification of Errors.

The Circuit Court of Appeals erred:

I. In not reversing the decree of the Circuit Court made and entered herein on August 24, 1899, and directing the said Court to render a decree dismissing the bill of the United States, as to the lands described in the first subdivision of the final decree herein, as follows: All of the sections and parts of sections of land in the State of California, surveyed and unsurveyed, designated by odd numbers within twenty miles on each side of the line of route of the Texas Pacific Railroad Company, from a point near Marshall, in the State of Texas, westerly to the bay of San Diego, in so far as said lands or any part thereof are situated within thirty miles on either side of the designated line of road of the Southern Pacific Railroad Company between the

Colorado River and a point near Fort Yuma and Los Angeles.

II. In deciding that the United States are the owners by title and fee simple absolute, or the owners in any wise, of the lands or any of them, in controversy and described in the pleadings and in the first subdivision of the decree of the Circuit Court herein.

III. In deciding that the defendants and appellants, each of them, be enjoined and restrained from having or claiming any right, title, interest or lien in or to the lands or any of them in controversy and described in the pleadings, and in the first subdivision of the decree of said Circuit Court herein.

IV. In deciding that the defendants and appellants were not entitled to all the lands in controversy which are common to the place limits of the grant to the Texas Pacific Railroad Company and the place limits of the grant to the Southern Pacific Railroad Company under the contemporaneous grants to the two companies by the Act of Congress approved March 3, 1871, and entitled "An Act to Incorporate the Texas and Pacific Railroad Company and to

Aid in the Construction of Its Road, and for Other Purposes."

V. In deciding that the defendants and appellants were not entitled to an undivided half of the lands common to the place limits of the grants to the Texas Pacific Railroad Company and the Southern Pacific Railroad Company under the Act of Congress approved March 3, 1871.

VI. In deciding that the defendants and appellants are not entitled to select lands within the indemnity limits of the grant to the Southern Pacific Railroad Company, notwithstanding that such lands had formerly been within the place limits of the grant to the Texas Pacific Railroad Company.

FIRST POINT.

The Southern Pacific Railroad Company is entitled to all the lands common to its place limits and the twenty-mile limit shown on the Texas Pacific map of general route of August 15, 1871.

The grants to both the Texas Pacific Railroad and the Southern Pacific Railroad were given by the Act of 1871 (Appendix, p. 1). The grant to

the latter company was by the 23d section of the act and contained the following proviso:

> "That this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company."

Nothing was done by the Texas Pacific in relation to its proposed road in California, except to file in the Interior Department in October, 1871, a map of general route (Record, p. 8). No map of definite location was ever filed by it and not a mile of railroad ever constructed. After the filing of this map of general route and on or about October 15, 1871, the usual order of withdrawal from "pre-emption, private entry and sale" of all public lands within the limits of the Texas Pacific grant was made by the Commissioner of the General Land Office (Record, p. 8).

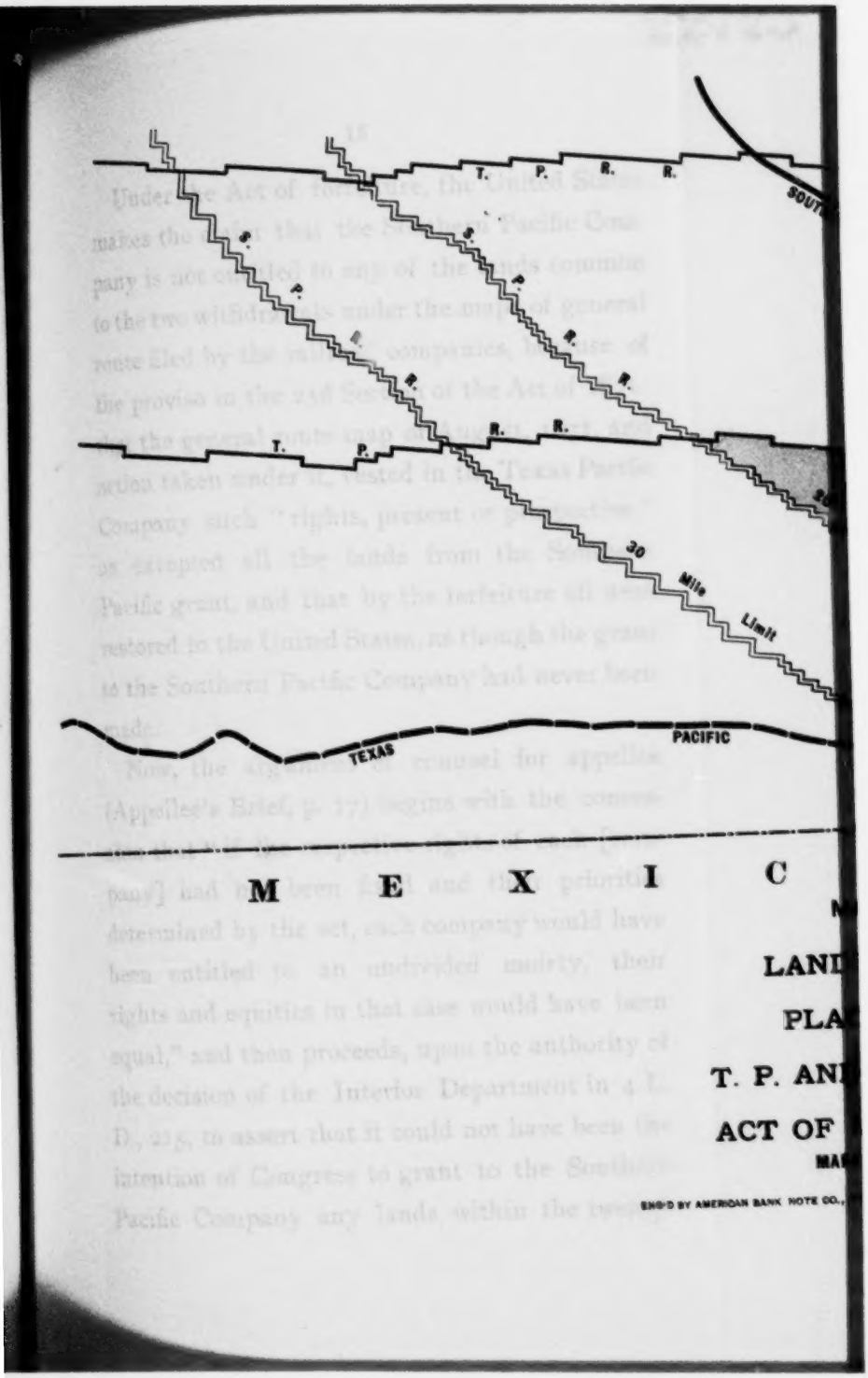
The Southern Pacific Company, on April 3, 1871, filed its map of general route from Yuma, North, and on April 21, 1871, the lands within its limits—including all the lands in suit—were withdrawn from "pre-emption, private entry and sale" by the Commissioner of the General Land Office (Record, p. 63). This withdrawal on the Southern Pacific map was thus more than five

months before the withdrawal on the Texas Pacific map. The lands in controversy under this point are shown in red upon Map 1.

The Southern Pacific then proceeded with its construction upon the line of its map of 1871 from Tehachapa Pass (where it connected with its main line road from the Needles to San Francisco) to Yuma. The line was completely constructed and accepted by the United States, the last section being finished in December, 1877 (Record, p. 63).

We have, therefore, a completed, accepted line of road built under the grant, and its benefits claimed by the Southern Pacific Company, as against a mere map of general route filed by the Texas Pacific Company, and a withdrawal of lands from "pre-emption, private entry or sale," which was subsequent to the withdrawal in favor of the Southern Pacific Company.

Nothing whatever having been done by the Texas Pacific Company toward locating or building the road, Congress, in February, 1885, forfeited the grant to that Company (see appendix, p. xv). This forfeiture covered the proposed lines of the Texas Pacific Company in Arizona, New Mexico and California.


T. P. R. R.
T. P. R. R.
30 Mile Limit
TEXAS
PACIFIC
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MAP No. 1.

LANDS COMMON TO PLACE LIMITS OF T. P. AND S. P. GRANTS, UNDER ACT OF MARCH 3d, 1871, MARKED IN RED.

ENG'D BY AMERICAN BANK NOTE CO., NEW YORK.

Scale, One Inch — 12 Miles.

Under the Act of forfeiture, the United States makes the claim that the Southern Pacific Company is not entitled to any of the lands common to the two withdrawals under the maps of general route filed by the railroad companies, because of the proviso in the 23d Section of the Act of 1871: that the general route map of August, 1871, and action taken under it, vested in the Texas Pacific Company such "rights, present or prospective," as excepted all the lands from the Southern Pacific grant, and that by the forfeiture all were restored to the United States, as though the grant to the Southern Pacific Company had never been made.

Now, the argument of counsel for appellee (Appellee's Brief, p. 17) begins with the concession that "if the respective rights of each [company] had not been fixed and their priorities determined by the act, each company would have been entitled to an undivided moiety, their rights and equities in that case would have been equal," and then proceeds, upon the authority of the decision of the Interior Department in 4 L. D., 215, to assert that it could not have been the intention of Congress to grant to the Southern Pacific Company any lands within the twenty-

mile limits of the Texas Pacific general route map. We submit that every principle of law governing this case has become so well settled that citation of authority only is necessary, and we respectfully insist that the Southern Pacific Company is entitled to all the lands common to its place limits and the twenty-mile limits shown by the map of withdrawal on the Texas Pacific map of general route of August 1871.

The terms of the Act of 1871 and the map of April, 1871, followed by construction of the road and acceptance by the government, gave these lands to the Southern Pacific Company, unless,

First. By a definite location of its line, the grant to the Texas Pacific *took effect*, so that it became, by operation of the law as to contemporaneous grants, entitled to an undivided half of the odd sections of the overlapping limits, or

Second. Unless the proviso in Section 23 defeats the Southern Pacific claim (the Texas Pacific Company having done nothing beyond filing its map of general route).

As to the first condition the grant to the Texas Pacific never "took effect" as to these lands.

Nothing is better settled in the land laws,

than that, while a congressional land grant to a railroad company, is a grant *in præsenti*, until acceptance by the company and the filing of a map of definite location of line, fixing the route of the road beyond the power of the company to change it without express authority by Congress so to do, the so-called grant is, in the language of the decisions, only a "float," and that it does not vest the company with any right or interest in any specific tract of land.

In Van Wyck vs. Knevals, 106 U. S. 360, 365, the situation of a grantee and the fact that the grant is not only not self operating, but can have no practical operation until the line or road is definitely located, is concisely stated as follows:

> "The grant is one *in præsenti*, * * * that is, it imports the transfer, * * * of a present interest in the lands designated. The difficulty in immediately giving full operation to it arises from the fact that the sections designated as granted are *incapable of identification* until the route of the road is 'definitely fixed.' When that route is *thus established*, the grant *takes effect* upon the sections by relation as of the date of the act of Congress."

The strict application of this rule has been

consistently observed in the judicial decisions of this Court. The grant resting in the statute does not "take effect" until "definite location" by map duly filed, and not an acre of land, to pass by the grant, is "capable of identification," until the route of the road is so fixed.

We call attention to the words "takes effect," so commonly used by this Court in defining the operations and rights under these grants. It is practically the unvaried expression, that, until definite location, the grant does not "take effect."

The *act* which fixes the *time* of the definite location is the act of filing the map in the office of the Commissioner of the General Land Office, as was decided in the case of Kansas Pacific Ry. Co. vs. Dunmeyer, 113 U. S., 629.

Therefore, the "grant" to the Texas Pacific never "took effect" as to any of these lands. It was a "float" of benefit only when the company should act, by "locating" its line, and *so* causing the grant to "attach" to specific tracts of land. To state it broadly, there has never been a time when it could properly be said that the Texas Pacific Company had an interest in, or that its grant took effect upon an acre of land in this controversy.

No application can be made here of the law of contemporaneous grants to the effect that lands common to the place limits of the two grants must be shared equally between the grantees, because such rule of law presupposes that both companies have vested rights in the common land acquired by each having filed a map of definite location. That is to say, when grants have been made by the same act or at the same time affecting the same lands and such action has been taken by the railroad companies that legal rights to specific lands have attached, then the Court has been called upon to determine the rights between them and has given to each an undivided moiety in the lands. *It is, however, to be noticed that invariably in every such case there has been a definite location of its line of road by each company.*

The rule of construction as to contemporaneous grants is stated with clearness in Sioux City & St. Paul R. R. Co. vs. The United States, 159 U. S., 349–364.

> "The rule is well settled that when lands are granted by Acts of Congress of the same date, or by the same Act to aid in the construction of two railroads that must neces-

> sarily intersect, or which are required to intersect, each grantee—*the map of definite location having been filed and accepted*—takes, as of the date of the grant, an equal undivided moiety of the lands within the conflicting place limits, without regard to the time of the location of the respective lines."

While the grant is only a "float" till definite location, then upon such location (as is perfectly well understood) the fiction of "relation" is brought in and the right to the land relates back to the date of the grant.

In Sioux City & St. P. R.R. Co. vs. C. M. & St. P. R'y. Co., 117 U. S., 406, 408 as to contemporaneous grants, it was said:

> "The title acquired from the United States relates back to the date of the grant, and neither company can obtain any superiority of title by any act done by it or by any omission to act by the other, *provided there is no forfeiture of the grant.* This principle is fully decided in the case of Sioux City & St. Paul R.R. Co. vs. Winona, &c. R.R. Co., 112 U. S., 720. *In such cases* the companies take the lands coming within the *conflicting lines* in equal undivided moieties."

In the case at bar there was a forfeiture by

Act of Congress, and of course as to the Texas Pacific, there is nothing to construe as to rights in specific lands, as it never had any, because of its failure to file its map of definite location.

It is obvious that there can be no "conflicting lines," except upon maps of location of road, and within lateral limits drawn with relation thereto. As said by Mr. Justice MILLER in the case last cited, when speaking of the map of definite location at page 408 "that *location* ascertained the sections which passed by the grant, and fixed the right to such sections, whether it was the whole or the moiety of them."

Put in another way, there can be no "crossing" or "conflict," or "overlapping" of grants, calling for construction of the laws making them except there be maps of location, fixing "lines" and "limits." Therefore in every case in this Court, where construction has been given to contemporaneous grants, there was definite location by all the companies interested.

Although the Act of 1871 contemplated aid to the two railroads, the rights of neither could be foreseen by Congress, except in the most general way, so long as the lines of route were optional with the Companies. While Yuma was settled

upon as the junction, no one could say, in advance, whether there would be any conflict in the grants. If the topography was such at the junction that it would be better for the Texas Pacific line to go south for a distance, and for the line of the Southern Pacific Company to go north toward San Francisco, there would be no conflict at all.

The case, therefore, stands upon recognized rules of construction, and each railroad is entitled to receive what it has earned under the grant. If the Texas Pacific Company located and constructed its line of road, and the Southern Pacific Company abandoned its contemplated road and its lands were forfeited, clearly the Texas Pacific would receive all the land within its place limits. Conversely, the Southern Pacific Company is now entitled to all, unless defeated by the proviso to the 23d Section of the Act of 1866, to be considered later.

Under the established rule of this Court, where valid acts of Congress make grants at different times to different companies embracing the same lands, the courts are to determine which shall take the lands.

In the case of the United States vs. Oregon, &c. Railroad Co., 176 U. S., 28, the lands in suit

were within the probable limits of the Northern Pacific grant of 1864, and within the legislative withdrawal, if such obtained, upon its map of general route of March, 1865. The lands were also within the grant to the Oregon and California Railroad Company under the Act of 1866 and within the limits fixed by the map of definite location filed October 29, 1869.

Here was legislation, or "grant," coupled with general route map, to the Northern Pacific Company long prior to legislation, or "grant," and map of the Oregon and California Company, covering the same lands. Because of the failure of the Northern Pacific Company to take the necessary action to make its floating "grant" attach to the lands, viz., by filing a map of definite location of its line, and because there was a forfeiture of its grant by Congress, the Oregon and California was held entitled to the lands.

Again, in the case of the United States vs. Southern Pacific R. R. Co., 146, U. S. 570, the lands were within the probable limits of the Atlantic and Pacific grant. They were also within the limits of the later Southern Pacific grant (in fact, the very grant in this case). The Court, considering what would have been

the effect had the Atlantic and Pacific map been a general route map instead of a map of definite location (as it was held to have been) at page 606 said:

> "The question is asked, supposing the Atlantic and Pacific Company had never located its line west of the Colorado River, would not these lands have passed to the Southern Pacific Company under its grant? *Very likely that may be so.* The language of the Southern Pacific Company's grant is broad enough to include all land along its line, and if the grant to the Atlantic and Pacific Company had never taken effect, it may be that there is nothing which would interfere with the passage of the title to the Southern Pacific Company."

The exact relation of two companies toward the lands which are embraced in contemporaneous grants, where there is action toward construction by one, and non-action by the other, is well and authoritatively illustrated by the letter of Mr. Secretary Lamar, quoted approvingly by this Court in S. P. R. R. Co. vs. United States, 183 U. S., 519, as follows at page 525:

> "The question as to the two grants under this Act of 1866, was presented to Mr.

Justice LAMAR, at that time Secretary of the Interior; and his ruling to the same effect appears in a letter of instructions to the acting Commissioner of the General Land Office on November 25, 1887. 6, Land Dec., 349. In that letter he said:

"'The Southern Pacific Company located its main line January 3, 1867, and by the terms of the grant, its right immediately attached to every odd section of land not of the character excepted by the grant, and within the ten-mile limit, subject, however, to be divested to the extent of a half interest in every such odd section that might fall within the common limits of both roads, *after the filing of the map of definite location by the Atlantic and Pacific Company.*

"'The Atlantic and Pacific Company filed its map of definite location April 11, 1872, and April 16, 1874, showing that the primary or granted limits of said road overlapped and conflicted with the primary or granted limits of a portion of the Southern Pacific road. As to the lands falling within the granted limits of both roads, the filing of the map of definite location by the Atlantic and Pacific Company, showing such conflict, immediately divested the Southern Pacific Company of the right and title to a half

> interest in all such odd sections, and from that moment *and by that act the two companies* became entitled to equal, undivided moeities in such sections, without regard to the priority of location of the line of the road, or priority of construction; the right of each company relating back to the date of the grant.'"

As to whether the Southern Pacific map was of general route or definite location, Mr. Justice BREWER, in the same opinion, said at p. 526:

> "Neither is it material whether the line indicated on the map filed is to be taken as a line of general route or of definite location, for in fact the road was constructed along that line 'as near as may be,' in the language of the resolution, and the road has been accepted by the Government."

After concluding the quotation of Mr. Secretary LAMAR'S opinion, this Court said, at p. 527:

> "We are of the opinion, therefore, that Mr. Secretary Lamar was right in his conclusion that both the grant to the Southern Pacific and that to the Atlantic and Pacific *took effect*, and being by the same act, so far as there was a conflict, the two com-

panies took equal, undivided moieties of the land."

That is to say, the Southern Pacific Company had the undoubted right to proceed with definite location and construction, and by so doing to become vested under the terms of the grant with the title to all lands within its place limits until, by due *location of line*, the Atlantic and Pacific became entitled to be treated as a tenant in common.

The argument of the appellee that these lands were "reserved" by reason of the withdrawal in September, 1871, on the Texas Pacific map of general route, would seem to be disposed of by the statement that when the withdrawal was made for the Texas Pacific Company all the lands had been since the previous April under withdrawal on the Southern Pacific map of general route.

The grants to both roads, whatever they were, were by the same Act of Congress, and as to rights under the legislation, under general law, neither could have a withdrawal to the disadvantage of the other. Otherwise the Southern Pacific withdrawal would oust the Texas with-

drawal because the earlier. We think it perfectly clear that these "withdrawals" were neither of advantage or prejudice to either company, upon the theory of "reserved lands."

It remains then to consider the proviso of the 23d section of the Act, that "this section shall in no way affect or impair the rights, present or prospective of the Atlantic and Pacific Railroad Company or any other railroad company."

Assuming for the purpose of the argument only, that the Texas Pacific Company may be included in the expression, "or any other railroad company," what "rights" were prospectively safeguarded by the *proviso?* These could only be rights to tracts or specific parcels of lands in either primary or indemnity limits, and these of necessity must be along and opposite a located line. A right is defined to be, that which justly belongs to one; that one has a claim to posses or own: title; claim; property; interest; ownership.

There being no located line of the Texas Pacific, no "present rights" of said company ever attached to any tracts of land as "place" lands; the only "present" right which could attach to place lands would be *title* itself thereto, which could only come through definite location.

Beyond question or claim even by counsel, the Texas Pacific Company never had a "present right" to an acre of these lands, and so no act of the Southern Pacific Company by way of location or construction has affected or impaired any "present right" of the Texas Pacific Company.

We are brought, then, to the other class of rights, viz., "prospective rights" to the lands in suit; the assumption is indulged in that, by recognition of the *prima facie* right of the Southern Pacific to its earned lands, a "prospective right" of the Texas Pacific was affected or impaired.

Now, a "right" to property must have some specific property to rest itself upon; a "present" right is an existing interest of some kind in the thing affected; a "prospective" right must be an appreciable claim based upon some reasonable expectation of acquiring the thing or property. As to railroad lands, no right, present or prospective, can possibly arise without location of line; when that shall have been done there is a *present* right as to place lands and a *prospective* right as to indemnity lands; but, until then, no rights of any kind exist as to specific lands.

This is the substance of the decision in the

United States vs. Colton Marble Co., 146 U. S., 615. After showing that this *proviso* had no relation to granted or place lands, as the filing of map of definite location would fix the present rights to such lands, the opinion proceeds, at page 617, as follows:

> "* * * Congress meant by it to impose limitations different from those generally imposed in such cases, and it in substance declared that the Southern Pacific Company should not in any event take lands to which any other company had *at the time* a present or prospective right. As it could have no effect upon the lands within the granted limits, it must have been intended to have some effect upon those within the *indemnity limits, they being the only lands upon which it could operate.*
>
> "What were the prospective rights of the Atlantic and Pacific Company? Of course it could not be known at the time of the passage of the latter act exactly where the lines of the two companies *would be located*, and where the point of crossing would be. Neither could it then be known that there would be any deficiency in the granted lands at the point of crossing, or that, if such deficiency existed, it would

require all the indemnity lands to make good the loss. It might well be assumed that very likely the Atlantic and Pacific Company would be called upon to select from the indemnity lands a portion sufficient to make good the deficiency, in the granted limits. That right of selection was a prospective right, and if it was to be fully exercised, no adverse title could be created to any lands within the indemnity limits."

The opinion of the Court in the Colton case presupposes that a map of definite location was filed. Without the fixing of the place lands by the filing of the map of definite location, there could be no indemnity lands or any basis for the selection of them.

Nor did the map of general route change the situation, for a withdrawal by the Department on general route map gives no right, claim or interest in and to the lands covered by it. It simply protects the lands from the prohibited disposition to the public by pre-emption, private entry or sale.

Menotti vs. Dillon 167 U. S., 720.
Kansas Pacific Ry. Co. vs. Dunmeyer,
113 U. S., 636.

In the case of United States vs. Southern Pacific Ry. Co., 146 U. S., 570, it was said at page 600:

> "* * * the map which was filed on April 3, 1871, was simply one of general route, and therefore did not work a designation of the tracts of land to which the Southern Pacific's grant attached."

As to the effect of filing a general route map under a superior (prior) grant, where nothing else is done by the grantee, but a road is built by another grantee under a subsequent grant, followed by forfeiture of the superior grant, see the case of the United States vs. Oregon and California Rd. Co., 176 U. S., 28, in which it appears that the Northern Pacific grant was under the Act of July 2, 1864, and that the map of general route was filed March 6, 1865. The Northern Pacific grant was forfeited September 29, 1890, no map of definite location having been filed. The Oregon and California grant was under the Act of July 25, 1866, and its map of definite location was filed January 29, 1870, and its road constructed. In the opinion of the Court, at page 43, it is said:

"If therefore the Perham map of 1865 were conceded for the purposes of the present discussion to have been sufficient as a map of general route * * * these lands could not be regarded as having been brought by that map (even if it had been accepted) within the grant to the Northern Pacific Railroad Company, and thereby have become so segregated from the public domain as to preclude the possibility of their being earned by other railroad companies under statutes enacted by Congress after the filing of that map, and before any definite location by the company of its line.

"There are some general expressions in Buttz vs. Northern Pacific Railroad, above cited, which, counsel insists, indicate a different view. In that case Mr. Justice FIELD said that when the general route of the Northern Pacific Railroad was fixed and information thereof given to the Land Department by filing the map of such route, '*the law* withdraws from sale or pre-emption the odd sections to the extent of forty miles on each side. The object of the law in this particular is plain: it is to preserve the land for the company to which, in aid of the construction of the road, it is granted.'

"This language was too broad, if it is

> construed to express the thought that public lands, when within the exterior lines of a 'general route' are 'appropriated' from the time the map of such route is filed, so as to prevent them from being granted by Congress to and from being earned by another railroad corporation prior to the filing of a map of definite location by the company designating such general route."

The effect of the Forfeiture Act of 1885 should perhaps be noticed, because under this Act the United States claims to have succeeded to the interests, whatever they were, of the Texas Pacific Company. Of course, by the Forfeiture Act, the Texas Pacific was divested of whatever it *had* under the Act.

As to all public lands in Arizona, New Mexico and California, which might have been earned by it, or to which title might have attached, had definite location of its line been made, its rights never progressed beyond the granting act, under which its right to the lands was only a "float." The Forfeiture Act, therefore, was simply a repealing act and nothing more. The United States was not by the Forfeiture Act re-

vested with any title to the land, for no *title* had as yet passed from it. The act simply revoked the right on the part of the Texas Pacific to take certain action by which tangible title might be secured.

The title to all public lands which the Texas Pacific might have obtained by filing its map of definite location, has all along been in the United States (except in so far as title to a part thereof has been acquired by the Southern Pacific Company), undisturbed by the Texas Pacific grant, so that no title to any land to be quieted by this bill has reverted to the United States by reason of the Texas Pacific Forfeiture Act. The Southern Pacific claims to the lands in question, which are attacked in this suit, are regular claims of title to lands earned by construction and acceptance of its road under the grant.

We therefore submit that the Southern Pacific Railroad Company is entitled to all lands common to the place limits of its grant and the grant to the Texas Pacific Railroad under the Act of March 3, 1871, and that the United States acquired no title thereto or interest therein or in any part thereof by reason of the Forfeiture Act of 1885.

SECOND POINT.

The Southern Pacific Railroad Company is entitled to an undivided half of the lands common to its place limits and the place limits of the grant to the Texas Pacific Railroad Company under the Act of March 3, 1871.

If the Court should not agree with the contention in the first point that the appellant was entitled to all the land common to the place limits of the two roads, because of the failure of the Texas Pacific to file a map of definite location, then we insist that the Southern Pacific is entitled to one-half the land within the conflicting limits.

The grants to the Southern Pacific Railroad Company and to the Texas Pacific Railroad Company under the Act of 1866 were, of course, contemporaneous grants, and it is well established by the decisions of this Court that, where two railroads receive grants under the same act, they share in common all conflicting lands within their place limits. The lands involved under this point are an undivided half of lands shown in red upon Map 1.

The latest case upon this subject is the

Southern Pacific Railroad Company vs. United States, 183 U. S., 519, where it was said at page 525:

> "By the act of 1866, Congress made grants of land to two different companies; by the third section to the Atlantic and Pacific, and by the eighteenth section to the Southern Pacific. The settled rule of construction is that where by the same act, or by acts of the same date, grants of land are made to two separate companies, in so far as the limits of their grants conflict by crossing or lapping, each company takes an equal, undivided moiety of the lands within the conflict."

The following cases are to the same effect:

> Sioux City, &c., Railroad vs. United States, 159 U. S., 349.
> Donahue vs. Lake Superior Canal, &c., 155 U. S., 386.
> Sioux City Railroad vs. Chicago Railroad, 117 U. S., 406.

It is conceded by both Courts below that this general rule would be applicable to this case were it not for the decision of this Court in the case of the United States vs. Colton Marble & Lime Co., 146 U. S., 615, and the determination of this controversy largely depends upon a correct

understanding of what was decided in the Colton case.

The land there in question was within the indemnity limits of the grant to the Atlantic and Pacific Railroad under the Act of July 27, 1866, and within the place limits of the grant to the Southern Pacific Railroad Company under the Act of March 3, 1871. It is therefore clear on the very face of it that the case had nothing to do with contemporaneous grants, the grant to the Atlantic and Pacific being five years prior in time to the grant to the Southern Pacific Railroad Company.

Not only were the grants to the two railroads different in point of time, but the only question involved was a discussion of what was meant by the words in the Act of 1871, which provided that the grant to the Southern Pacific Railroad Company should "in no way affect or impair the rights present or prospective of the Atlantic and Pacific Railroad Company," and it was held by this Court that the right of the Atlantic and Pacific to select land within its indemnity limits, in order to make good the losses within its primary limits, was a prospective right and that it was the intention of Congress by the

use of the word "prospective" in the Act of 1871, to limit the grant to the Southern Pacific Railroad Company, so that it would not affect in any way the right of the Atlantic and Pacific Company to select land within its indemnity limits. In other words, the right of the Atlantic and Pacific Company to make indemnity selections was a prospective right which by the very terms of the grant to the Southern Pacific Railroad Company under the Act of 1871, could not be impaired by the subsequent grant to the latter company.

The reasoning in the Colton case would apply to any other railroad company which had acquired rights prior to the passage of the Act of 1871, so that the grant under this act to the Southern Pacific Company would not affect any prospective right which had theretofore been granted, either to the Atlantic and Pacific Company or to any other company. It is not, however, plain how the doctrine of the Colton case can have any application to a railroad company acquiring rights simultaneously with the Southern Pacific Railroad Company and under the same Act of Congress. A careful examination of the decision in the Colton case will show that importance and stress was laid upon the point that the proviso in the Act of 1871

was intended to prevent the Southern Pacific Railroad Company from taking lands "to which any other company had *at the time* a present or prospective right" (United States vs. Colton Marble & Lime Co., 146 U. S., 615, 617); that is to say, it was the intention of Congress that the grant to the Southern Pacific Railroad Company under the Act of 1871, should not affect the rights then in existence of any other railroad company, whether such rights were present or prospective rights.

Now, at the time the grants of land were created under the Act of 1871 the Texas Pacific Railroad Company had no present or prospective right to the land in controversy here. Whatever right it had was created by the Act of 1871 and simultaneously with the right of the Southern Pacific Railroad Company. The two grants were contemporaneous. The limitation of the grant given by this statute was clearly intended to apply to a present or prospective right created in some way by statute or otherwise prior to the Act of 1871, and there is no foundation for the claim that the words "any other railroad company" relate to a railroad company the rights of which were created contemporaneously and by

the same act. When the words "any other railroad company" were used, Congress intended to refer to a railroad company which acquired rights under some prior Act of Congress, and it was never meant that the words "any other railroad company" should include a railroad company which received its rights, both present and prospective, contemporaneously with and at the very moment that the Southern Pacific Railroad Company acquired its own grant under the Act of 1871.

In other words, the single question presented to this Court is, What did Congress mean by the clause "any other railroad company" at the end of Section 23 of the Act of March 3, 1871, which provided that the grant to the Southern Pacific Company should not "affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company?" We insist that these words relate solely to a railroad which had rights acquired prior to the passage of the act. The Southern Pacific Company took its grant subject to the condition that such grant should not interfere with grants theretofore given to other railroads, but not upon the condition that the grant to the Southern Pacific

Railroad Company was to be subordinate to the contemporaneous grant to the Texas Pacific Railroad Company and a departure from and exception to the ordinary rule as to the equal division between grantees of lands falling within the place limits of two grants created by the same Act of Congress. If it had been the intention of Congress to make the grant to the Southern Pacific Company subordinate to the contemporaneous grant to the Texas Pacific Company, surely some words would have been used in the granting act indicating such intention and showing the purpose of Congress to depart from the usual mode of division and distribution of lands given to two grantees by the same Act of Congress.

It is, therefore, respectfully submitted that the Southern Pacific Railroad Company is at least entitled to an equal undivided moiety of the lands common to the place limits of the grants under the Act of Congress of March 3, 1871; that the interest of the Texas Pacific Railroad Company in and its right to said land (if he had any) was forfeited to and resumed by the United States by the Forfeiture Act, approved February 28, 1885; and that by reason of said forfeiture the United States

and the Southern Pacific Railroad Company became tenants in common of said land, and each became entitled to an equal undivided moiety thereof under the doctrine of the decision of this Court in the case of the Southern Pacific Railroad Company vs. The United States, 183 U. S., 519.

THIRD POINT.

If at the time of the forfeiture of its grant the Texas Pacific had any prospective rights in the land forfeited, it was only a right to an undivided moiety in the lands common to the place limits of the two railroads.

The two grants were contemporaneous. Under the settled rule of this Court (referred to at length in the first point of this brief), the Southern Pacific Company upon filing its map of definite location was clearly entitled to all the odd sections within its place limits, in case the Texas Pacific never filed its map of definite location or constructed its road.

The question presented in this case is whether the situation is altered by the proviso in the 23d section of the granting act, and if so, how.

We claim that the proviso refers in no way to

the Texas Pacific Railroad, but if the Court should hold against this contention, it is necessary to ascertain what is meant by the proviso, bearing in mind at the same time that it is contained in an Act of Congress making contemporaneous grants. In other words, so far as the Texas Pacific Company is concerned, the proviso must be construed with reference to the rule dividing between them land given by the same Act to two different railroads.

Now, from the time of the Granting Act of 1871 to the time of the Forfeiture Act of 1885 the Texas Pacific had no present right in the land in question. If it had any right at all thereto (which we deny) it must have been a prospective right and the question comes to this: What prospective right, if any, did the Texas Pacific Railroad have to the lands within the common limits of the two grants?

Having regard to the fact that the grants to the two railroads were simultaneous, it seems to us that the only prospective right which the Texas Pacific could have to the lands within the conflict was the right it might acquire by filing its map of definite location to an undivided half of the common place lands.

If not for the proviso, the Southern Pacific Company was clearly entitled upon filing its map of definite location to all the land within the common place limits, subject to being divested of one-half thereof by the subsequent filing of a map of definite location by the Texas Pacific Company. The right to so divest the Southern Pacific of one-half of the common place lands was therefore the only prospective right which the Texas Pacific had at the date of the forfeiture act.

We, therefore, say that, if we are wrong in the propositions urged in the first and second points of our brief, then the Southern Pacific Company did not by filing its map of definite location gain the title to all the land within its place limits subject to one-half thereof being divested by the subsequent filing of a map of definite location by the Texas Pacific Company, as would be the ordinary case under contemporaneous grant, but that the Southern Pacific Company, when it filed its map of definite location, acquired only a right to an undivided moiety in said lands because of the proviso in the act and the prospective right in the Texas Pacific Company to the other half of said land should it ever file a map of definite location.

We urge that this construction of the act (in case the Court does not agree with us that the proviso in no way relates to the Texas Pacific Company) reconciles the provisions of the proviso with the other controlling fact, viz.: that the act relates to contemporaneous grants.

To put it in another way it is necessary in construing this act not only to consider the proviso, but to give equal consideration to the established rule of contemporaneous grants, and by giving due consideration to both aspects of the matter to harmonize the apparant conflict between them.

We, therefore, submit that if the proviso found in the 23d section of the act of 1871 refers to the Texas Pacific Railroad, and if the Texas Pacific Railroad had any prospective right in the land in controversy at the time of the forfeiture act (all of which we deny), then such prospective right related to an undivided moiety in the common place lands. This prospective right to an undivided moiety was then forfeited to the United States by the Act of 1885, leaving the Southern Pacific Company and the United States tenants in common of the lands within the conflicting place limits of the two grants under the Act of 1871.

MAP No. 2.

LANDS COMMON TO INDEMNITY LIMITS OF S. P. GRANT AND TO PLACE LIMITS OF T. P. GRANT, UNDER ACT OF MARCH 3d, 1871, MARKED IN RED.

ENG'D BY AMERICAN BANK NOTE CO., NEW YORK.

Scale, One Inch — 12 Miles.

FOURTH POINT.

In order to make good losses within its place limits the Southern Pacific Railroad Company is entitled to select from the place lands of the Texas Pacific grant, which have been actually restored to the public domain by the Act of 1885, any lands which are within its own indemnity limits.

The point which we now make is that a railroad is entitled to select indemnity lands from any lands within its indemnity limits which at the time of selection are public lands. The lands covered by this point are shown in red on Map 2.

As we understand it, the case of Ryan vs. Railroad Co., 99 U. S., 382, is on all fours with the case at bar. In the Ryan case the land in controversy was within the indemnity limits of the grant in aid of the California and Oregon Railroad Company under the Act of July 25, 1866 (14 Stat., 239). At the time of the grant to the railroad company the land was not public land, but was claimed to be within the boundaries of a prior Mexican grant. Between the date of the granting act and of the selection of the land

by the railroad, and about a year prior to such selection, this Court held the Mexican grant invalid, and the land was thereby restored to the public domain. It was decided that, whereas the rights of the company under such a grant, in respect to lands within *primary* limits, depend upon the status of the lands, as public lands or otherwise, at the date of the act and the time of definite location, the rights to lands within *indemnity* limits depend upon their status, as public lands or otherwise, at the date of selection.

The Court in the Ryan case especially distinguished it from Newhall vs. Sanger, 92 U. S., 761, where the land restored to the public domain was within the primary or granted limits of the company, and at the time of the grant thereof and its location was affected by an adverse claim, so that the railroad was not capable of taking title thereto. The Court in the Ryan case said at page 388:

> "It was within the secondary or indemnity territory where that deficiency was to be supplied. The railroad company had not and could not have any claim to it until specially selected, as it was, for that purpose. It was taken to help satisfy the grant to the extent that the odd sections originally

given failed to meet its requirements. When so selected there was no Mexican or other claim impending over it. It had ceased to be *sub judice* and was no longer in litigation. It was as much 'public land' as any other part of the national domain. The patent gave the same title to the appellee that a like patent for any other public land would have given to any other party. The Mexican claim when condemned lost its vitality. From that time, as regards the future, it ceased to be a factor to be considered, and was in all respects as if it had never existed. In this state of things the appellee acquired its title, and that title is indefeasible."

So in the present case the land within the indemnity limits of the Southern Pacific Grant, which was also embraced within the primary limits of the Texas Pacific Grant, is now, since the Forfeiture Act of 1885 (except so far as the indemnity rights of the Southern Pacific therein are concerned), as much a part of the public domain of the United States as any of the land of the United States. The right of the Southern Pacific to select such lands within its indemnity limits is entirely un-

affected by the past history of that land. It is as if the grant to the Texas Pacific "had never existed." The question is: What is that land now, when selection is sought to be made? Is it now public land or not? If it is now public land, it is of no importance whatever what parties in the past may have had claims or rights thereto, and it would seem absolutely immaterial whether the title to such land had formerly been claimed under a Mexican title thereafter declared void (as in the Ryan case), or under a grant of the United States subsequently declared to be forfeited, as in the case at bar.

In Alabama and Chattanooga R. R. Co., XX. L. D., 408, it appeared that the land in question had been taken under a homestead entry at the time the railroad made application to select the same as within its indemnity limits. The claim under the homestead entry was afterwards relinquished to the United States, "thus leaving the question wholly between the company and the United States" as to whether the railroad was entitled to the land after its restoration to the public domain. Secretary Smith held that:

> "While the selection in question could not properly have been allowed at the time

made by reason of Morton's entry, yet it now appears that such entry never ripened into a patent, but was relinquished to the United States. That being true, I see no reason why the selection may not now be approved."

In Southern Pacific R. R. Co., XXVI. L. D., 452, it was held by Secretary Bliss that:

> "Lands excepted from the grant to the Southern Pacific by homestead entries that were existing at the date when the grant took effect may be taken on behalf of said grant in lieu of mineral lands, if at the date of selection such entries have been canceled, and the lands are free from other claims or rights" (Syllabus).

Since the Ryan case the decisions of the Department of the Interior have been invariably to the effect that the status of lands within indemnity limits at the time of selection determines entirely the right of the railroad thereto.

In Allers vs. Northern Pacific R. R. Co., 9 L. D., 452 (1899), Secretary Noble held that:

> "A tract is not excluded from indemnity selection by reason of its being within the *primary limits* of another grant, if it is in

fact vacant public land at date of selection and otherwise subject to such appropriation."

In Northern Pacific R. R. Co. vs. Halvorson, 10 L. D., 15 (1890), Secretary Noble held that:

> "The right to *select indemnity* is not defeated by the fact that the land is within the *primary limits* of another grant, if the land is excepted from such grant and vacant public land at date of selection."

In Missouri, K. & T. Ry. Co. vs. Beal, 10 L. D., 504 (1890), Secretary Noble held that:

> "Prior to selection, the right to indemnity lands is only a float; and the right acquired by selection is dependent upon the status of the lands at date of selection and not at date of withdrawal."

In Northern Pacific R. R. Co. vs. Moling, 11 L. D., 138 (1890), Secretary Noble held that:

> "The right to select a tract as indemnity under a railroad grant is not defeated by the mere fact that the selection is within the *primary limits* of another grant, if the tract is vacant public land at date of selection."

In Hensley vs. Missouri, K. & T. Ry. Co., 12 L. D., 19 (1891), Secretary Noble held that:

"The right to take a tract of land as indemnity is determined by its status at the date of selection, and not at date of withdrawal."

In Northern Pacific R. R. Co. vs. Bass, 13 L. D., 201 (1891), Acting Secretary Chandler held that:

"The mere fact that a tract is within the *geographical* limits of another grant will not defeat the right to select the same as indemnity, if it is otherwise subject to selection."

In Hastings and Dakota Ry. Co. vs. St. Paul, M. & M. Ry. Co., 13 L. D., 535 (1891), Acting Secretary Chandler held that:

"The right acquired by an indemnity selection is dependent upon the status of the land at date of selection."

In St. Paul, M. & M. R. Co. vs. Munz, 17 L. D., 288 (1893), Secretary Smith held that:

"A tract of land within the *primary limits* of one grant and the *indemnity limits* of another, may be selected by the latter, on proper basis, if excepted from the grant to the former, and free from other claims at date of selection."

In South and North Alabama R. R. Co. vs. Hall, 22 L. D., 273 (1896), Secretary Smith held that:

> "The status of indemnity lands at the date of selection, not definite location of the road, determines the right of the company thereto."

In Southern Pacific Railroad Company vs. McKinley, 22 L. D., 493 (1896), Secretary Smith held that:

> "The right of a railroad company to take a tract of land as indemnity must be determined by the status of such tract at the date of the application to select the same."

It may be said by counsel for the Government that Bardon vs. Northern Pacific Railroad, 145 U. S., 535, is in conflict with the doctrine of the Ryan case. We do not so understand it. In the Bardon case the land in controversy was within the *place* limits of the grant to the Northern Pacific Railroad Company. At the time the railroad took title to its place lands, the land involved was not public land, and was excepted from the grant for the reason that it had been taken up on a pre-emption claim, and the only question before the Court was whether, upon the

restoration to the public domain of lands within the place limits of a railroad grant, which were reserved at the time of the grant, such lands fell within the grant. It was then held that the land in question could not be acquired by the railroad as part of its *place* lands for the reason that it "was severed from the mass of public lands from which the grant to the Northern Pacific Railroad Company could alone be satisfied" by the terms of the granting act, which gave to the railroad for its place limits ten alternate sections of land "not reserved, sold, granted or otherwise appropriated, and free from pre-emption or other claims or rights, at the time the line of said road is definitely fixed." In other words, the Court held that at the time the road of the Northern Pacific was definitely fixed the land involved was pre-empted. It did not, therefore, then fall within the grant of *place* lands, and could not thereafter by reason of the cancellation of the pre-emption claim, because it was too late, the grant of the place lands by its terms only taking effect as of a certain time—viz., when the line of road was definitely fixed, which was prior to the cancellation of the claim.

It was at the same time held that the land so

restored to the public domain could not be taken by the railroad as indemnity land to make up a deficiency within the place limits for the sole reason that such deficiency could only be supplied from land within the limits expressly specified by Congress.

It is hard to conceive that anyone could seriously consider that the Bardon case in any way conflicts with the doctrine of the Ryan case above quoted. It may be that in support of his claim the counsel for the Government will make the following quotation from page 545 of the decision in the Bardon case:

> "Not only does the land once reserved not fall under the grant should the reservation afterwards from any cause be removed, but it does not then become a source of indemnity for deficiencies in the place limits."

The succeeding sentence gives the reason why such lands could not be taken as a source of indemnity. It is that "*such deficiencies can only be supplied from lands within limits designated by the granting act or other law of Congress.*" That is to say, all lands which are taken to supply a deficiency in the place limits of a

railroad grant must be taken from the indemnity limits of that grant and from no other lands. The land involved in the Bardon case was not within such indemnity limits, and therefore could not be considered a "source of indemnity."

It would, therefore, seem very clear that this Court did not undertake to decide in the Bardon case that, if the pre-empted land in question had been within the indemnity limits of the Northern Pacific grant, and the pre-emption claim had been canceled subsequent to the granting act, the railroad would not have been entitled to select such land as indemnity land after its restoration to the public domain. The only possible inference from the case is that, if such question had been before it for determination, it would have decided that the railroad was entitled to make such selection, for the sole reason given by the Court why the land after restoration to the public domain could not be taken as indemnity land was that it was not situated within the indemnity limits granted to the railroad company, implying that, if it had been within such indemnity limits, the railroad company would have been entitled to it after it had been restored to the public domain,

although it was not public land at the time of the grant.

The Ryan case has always been referred to with approval by this Court and is now established law. The decisions of the Interior Department have ever since the Ryan case been in accord therewith. We, therefore, respectfully submit that the Southern Pacific is now entitled to select from within the indemnity limits of its grant under the Act of 1871 the lands of the Texas Pacific which were restored to the public domain by the Forfeiture Act of 1885.

FIFTH POINT.

The decree of the Court below should be reversed and modified in so far as it affirmed that part of the decree of the United States Circuit Court for the Southern District of California adjudging that the United States was the owner of the lands described in the first subdivision of said decree.

L. E. PAYSON,
MAXWELL EVARTS,
Of Counsel for Appellants.

APPENDIX.

ACT OF MARCH 3, 1871 (16 UNITED STATES STATUTES AT LARGE, P. 573).

CHAP. CXXII.—*An Act to Incorporate the Texas Pacific Railroad Company, and to Aid in the Construction of its Road, and for other Purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John C. Fremont, James L. Alcorn, G. M. Dodge, O. C. French, John D. Caldwell, J. J. Noah, A. C. Osborne, Timothy Hurley, C. C. Pool, Silas N. Martin, John M. Corse, George E. Wentworth, Philip H. Morgan, J. D. Cameron, Marshal O. Roberts, James L. Hodges, John Ray, W. Vermilye, Enoch L. Faucher, Charles F. Livermore, Joseph H. Oglesby, John Whytock, Daniel Drew, F. S. Davis, W. Orton, A. C. Babcock, Thomas A. Scott, Samuel D. Hoffman, H. Ramsdale, William H. Jackson, R. C. Parsons, Delos W. Emmons, M. A. Southworth, John H. Hall, G. C. Kinsey, W. P. Clark, James Dart, H. Jacobs, L. T. Smith, W. P. Dole, C. A. Weed, A. P. K. Safford, H. McCullough, Charles Jackson, Elisha Dyer, Alfred Anthony, James Hoy, M. W. Benjamin, H. D. Cooke, Joseph R. West, W. S. Huntington, J. M. Tebbetts, C. C. Leondridge, D. D. Porter, M. Woodhull, Hiram Price, M. C. Hunter, W. T. Walters, J. B. Brownlow, T. A. Morris, Owen Tuller, J. H. Ledlie, R. M. Bishop, Samuel Craighead, D. N. Stanton, Augustus H. Whiting, G. L. Johnston, J. W. Goodland, Powell Clayton,

Samuel Tate, W. Bolton, H. Robinson, George Maney, O. H. Bynum, M. Burns, J. C. Goodloe, E. G. Barney, Cyrus Busey, J. W. Forney, J. Lockwood, E. M. Davis, N. Patton, W. Flanegan, G. O'Brien, G. P. Buel, G. H. Gidding, J. J. Newell, E. W. Rice, R. M. Shoemaker, Samuel Sloan, S. W. Morton, J. B. Bowman, L. M. Flournoy, J. J. Hinds, G. R. Weeks, J. T. Ludling, B. C. Gilbert, B. D. Williams, Thomas Olcott, G. A. Fosdick, Harry Hays, P. S. Forbes, John T Sprague, L. R. Marsh, A. W. Beckwith, J. C. Stanton, Cyrus H. Baldwin, A. J. Hamilton, Rush R. Sloan, Silas C. Colgrove, Samuel D. Jones, N. H. Decker, William N. Leet, B. F. Allen, J. B. Chaves, Augustus Kountze, John N. Goodwin, William S. Rosecrans, Michael Hahn, H. C. Warmouth, J. S. Williams, G. M. Spencer, L. J. Higby, W. C. Kimball, and all such persons as shall or may be associated with them, and their successors, are hereby created a body politic and corporate in fact and in law, by the name, style, and title of the Texas Pacific Railroad Company, and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and use a common seal; and the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, from a point at or near Marshall, county of Harrison, State of Texas; thence by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona, to a point on the Rio Colorado, at or near the southeastern boundary of the State of California; thence by the most direct and eligible route to San Diego, California, to ship's channel, in the bay of San Diego, in the State of California, pursuing in the location thereof, as near as may be, the thirty-second

parallel of north latitude, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the pur[po]ses of this act.

Sec. 2. That the persons named in the first section of this act shall constitute a board of commissioners, (twenty of whom shall constitute a quorum for the transaction of business), to be known as the Texas Pacific Railroad Commissioners, who shall meet in the City of New York within ninety days after the passage of this act, at a time to be designated in a notice to be signed by the person first named in the list of corporators and six of his associates, and to be published for two weeks in, at least, one daily newspaper in New York, New Orleans, and Washington; and, when so met, they may cause books to be opened for the subscription of the capital stock of said company, and when twenty thousand shares, amounting to two millions of dollars, shall have been subscribed, and ten per centum actually paid thereon, in money, to the treasurer, to be elected by said commissioners, who shall give bond for its safekeeping and payment to the treasurer of the company when organized, then it shall be lawful for such subscribers or stockholders, or a majority thereof, to organize said company in accordance with the provisions of this act, and to elect not less than seven, nor more than seventeen directors, a majority of whom shall be necessary to the transaction of business, and who shall hold their offices for one year and until their successors shall be elected and qualified; and the said directors shall immediately proceed to elect a president, vice-president, secretary, and treasurer; the president and vice-president shall be directors. At all elections for directors, each share of stock shall be entitled to one vote, which may be given by the holders in person, or by proxy, who shall also be a shareholder. The directors shall hold their offices for any term not exceeding three years, as may be provided in the by-laws; and the annual meetings of stockholders shall take place as provided for in said by-laws.

SEC. 3. That the capital stock of the Texas Pacific Railroad Company shall be fixed by the board of directors, at a sum not exceeding fifty millions of dollars, in shares of one hundred dollars; and when the amount is so fixed, it shall never be increased except by consent of Congress. Assessments upon said stock shall only be made by a majority vote of the whole number of directors at a regular meeting, which said assessments shall be paid at the expiration of thirty days after a notice given in one newspaper in each of the cities of Washington, Philadelphia, New York, and New Orleans.

SEC. 4. That the said Texas Pacific Railroad Company shall have power and lawful authority to purchase the stock, land grants, franchises, and appurtenances of, and consolidate on such terms as may be agreed upon between the parties, with any railroad company or companies heretofore chartered by congressional, State, or territorial authority, on the route prescribed in the first section of this act; but no such consolidation shall be with any competing through line of railroads to the Pacific Ocean.

SEC. 5. That the said company shall have power and authority to make running arrangements with any railroad company or companies heretofore chartered, or that may hereafter be chartered by congressional, State, or territorial authority; also to purchase lands, or to accept donations, or grant of lands, or other property, from States or individuals, for the purpose of aiding in carrying out the object of this company.

SEC. 6. That the rights, lands, land grants, franchises, privileges, and appurtenances, and property of every description, belonging to each of the consolidated or purchased railroad company or companies, as herein provided, shall vest in and become absolutely the property of the Texas Pacific Railroad Company: *Provided*, That in all contracts made and entered into by said company with any and all other railroad company or companies, to perfect such aforesaid consolidation or purchase, the indebtedness or other legal obligations of said company or

companies shall be assumed by the said Texas Pacific Railroad Company as may be agreed upon, and no such consolidation or purchase shall impair any lien which may exist on any of the railroads so consolidated or purchased; but said company shall not assume the debts or obligations of any company with which it may consolidate or purchase as aforesaid, to an amount greater than the cash value of the assets received from the same.

SEC. 7. That the said Texas Pacific Railroad Company shall have power to make and enforce rules and by-laws for the election of its officers, and the government and management of the business of the company, and to do and perform all needful and proper things to be done and performed to promote the objects of the company hereby incorporated, not inconsistent with the laws of the United States and the provisions of this charter.

SEC. 8. That the right of way through the public lands be, and the same is hereby, granted to the said company for the construction of the said railroad and telegraph line, and the right, power, and authority is hereby given to said company to take, from the public lands adjacent to the line of said road, earth, stone, timber and other materials for the construction thereof. Said right of way is granted to said company to the extent of two hundred feet in width on each side of said railroad where it may pass over the public lands; and there is also hereby granted to said company grounds for stations, buildings, workshops, wharves, switches, side-tracks, turn-tables, water-stations, and such other structures as may be necessary for said railroad, not exceeding forty acres of land at any one point.

SEC. 9. That for the purpose of aiding in the construction of the railroad and telegraph line herein provided for, there is hereby granted to the Texas Pacific Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as such

line may be adopted by said company, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad in California, where the same shall not have, *not have* been sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached at the time the line of said road is definitely fixed. In case any of said lands shall have been sold, reserved, occupied or pre-empted, or otherwise disposed of, other lands shall be selected in lieu thereof by said company, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections first above named, and not including the reserved numbers. If, in the too near approach of the said railroad line to the boundary of Mexico, the number of sections of land to which the company is entitled cannot be selected immediately on the line of said railroad, or in lieu of mineral lands excluded from this grant, a like quantity of unoccupied and unappropriated agricultural lands, in odd-numbered sections nearest the line of said railroad may be selected as above provided; and the word "mineral," where it occurs in this act, shall not be held to include iron or coal: *Provided, however*, That no public lands are hereby granted within the State of California further than twenty miles on each side of said road, except to make up deficiences as aforesaid, and then not to exceed twenty miles from the lands originally granted. The term "ship's channel," as used in this bill, shall not be construed as conveying any greater right to said company to the water front of San Diego bay than it may acquire by gift, grant, purchase, or otherwise, except the right of way, as herein granted: *And provided further*, That all such lands, so granted by this section to said company, which shall not be sold, or otherwise disposed of, as provided in this act, within three years after the completion of the entire road, shall be subject to settlement and pre-emption like other lands, at a price to be fixed by and paid to said company, not exceeding an

average of two dollars and fifty cents per acre for all the lands herein granted.

SEC. 10. That when the route of said railroad and telegraph line shall pass through the lands of private persons, or where it may be necessary for said railroad company to take any lands belonging to private persons for any of the purposes herein mentioned necessary to said road, such right of way through or title to such lands shall be secured in accordance with the laws of the State or Territory in which they may be situated.

SEC. 11. That the Texas Pacific Railroad Company shall have power and authority to issue two kinds of bonds, secured by mortgage, namely: first, construction bonds; second, land bonds. Construction bonds shall be secured by mortgage, first, on all or any portion of the franchises, road-bed, or track of said railroad, and all the appurtenances thereto belonging, when constructed or in the course of construction, from a point at or near Marshall, to ship's channel, in the bay of San Diego, in the State of California, as aforesaid. Land bonds shall be secured by mortgage, first, on all or any portion of the lands hereby granted in aid of the construction of said railroad as is provided for in this act; second, on lands acquired by any arrangement or purchase or terms of consolidation with any railroad company or companies to whom grants of lands may have been made, or may hereafter be made, by any congressional, State, or territorial authority, or who may have purchased the same previous to any such arrangement or consolidation: *Provided*, That all the mortgages made and executed by said railroad company shall be filed and recorded in the Department of the Interior, which shall be a sufficient evidence of their legal execution, and shall confer all the rights and property of said company as therein expressed: *And provided also*, That the proceeds of the sales of the aforesaid construction and land bonds shall be applied only in the construction, operation, and equipment of the contemplated railroad line: *And provided further*, That said mortgage shall in

no wise impair or affect any lien existing on the property of said company or companies at or before the time of such consolidation.

SEC. 12. That whenever the said company shall complete the first and each succeeding section of twenty consecutive miles of said railroad and put it in running order as a first-class road in all its appointments, it shall be the duty of the Secretary of the Interior to cause patents to be issued conveying to said company the number of sections of land opposite to and coterminous with said completed road to which it shall be entitled for each section so completed. Said company, within two years after the passage of this act, shall designate the general route of its said road, as near as may be, and shall file a map of the same in the Department of the Interior; and when the map is so filed, the Secretary of the Interior, immediately thereafter, shall cause the lands within forty miles on each side of said designated route within the Territories, and twenty miles within the State of California, to be withdrawn from pre-emption, private entry, and sale: *Provided, however*, That the provisions of the act of September, eighteen hundred and forty-one, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled, "An Act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, and the amendments thereto, shall be, and the same are hereby, extended to all other lands of the United States on the line of said road when surveyed, except those hereby granted to said company.

SEC. 13. That the president of the company shall annually, by the first day of July, make a report and file it with the Secretary of the Interior, which report shall be under oath, exhibiting the financial situation of the company, the amount of money received and expended, and the number of miles of road constructed each year; and further, the names and residences of the stockholders, of the directors, and of all other officers of the company, the amount of stock subscribed, and the amount thereof

actually paid in, a description of the lines of road surveyed and fixed upon for construction, the amount received from passengers and for freight, respectively, on the road, a statement of the expenses of said road and its fixtures, and a true statement of the indebtedness of said company and the various kinds thereof.

SEC. 14. That the certificates of the capital stock must be signed by the president and secretary, and attested by the seal of the company, and shall contain an extract from the proceedings of the board of directors fixing the amount thereof, as well as from this act, authorizing such issue. All the bonds and mortgages issued by said company must be signed by the president and secretary, and attested by the seal of said company, and shall contain an extract from the law authorizing them to be issued. The face value of said bonds shall be one thousand dollars in gold, and shall be redeemable at such times, and to bear such rate of interest, payable semi-annually in gold, as may be determined by the directors. The total value of the construction bonds to be issued shall not exceed thirty thousand dollars per mile of said railroad, and the total face value of the land bonds shall not exceed two dollars and fifty cents per acre for all lands mortgaged; the total amount of each to be determined by the board of directors.

SEC. 15. That all railroads constructed, or that may be hereafter constructed, to intersect said Texas Pacific railroad, shall have a right to connect with that line; that no discrimination as regards charges for freight or passengers, or in any other matter, shall be made by said Texas Pacific Railroad Company against any of the said connecting roads; but that the same charges per mile as to passengers, and per ton per mile as to freight, passing from the said Texas Pacific railroad over any of said connecting roads, or passing from any of said connecting roads over any part of said Texas Pacific railroad, shall be made by said company as they make for freight and passengers over their own road: *Provided also*, That

said connecting roads shall reciprocate said right of connection and equality of charges with said Texas Pacific railroad: *And provided further*, That the rates charged for carrying passengers and freight, per mile, shall not exceed the prices which may be fixed by Congress for carrying passengers and freight on the Union Pacific and Central Pacific railroads.

SEC. 16. That said road shall be constructed of iron or steel rails manufactured from American ore, except such as may have heretofore been contracted for by any railroad company which may be purchased or consolidated with by the company hereby incorporated, as provided by this act.

SEC. 17. That the said Texas Pacific Railroad Company shall commence the construction of its road simultaneously at San Diego, in the State of California, and from a point at or near Marshall, Texas, as hereinbefore described, and so prosecute the same as to have at least fifty consecutive miles of railroad from each of said points complete and in running order within two years after the passage of this act; and to so continue to construct each year thereafter a sufficient number of miles to secure the completion of the whole line from the aforesaid point on the eastern boundary of the State of Texas to the bay of San Diego, in the State of California, as aforesaid within ten years after the passage of this act; and upon failure to so complete it, Congress may adopt such measures as it may deem necessary and proper to secure its speedy completion.

SEC. 18. That the President of the United States, upon the completion of the first section of twenty miles, shall appoint one commissioner, whose duty it shall be to examine the various sections of twenty miles as they shall be completed, and report thereon to him in writing; and if, from such report, he be satisfied that said company has fully completed each section of its road, as in this act provided, he shall direct the Secretary of the Interior to issue patents to said company for the lands it

is entitled to under this act, as fast as each section of said road is completed.

SEC. 19. That the Texas Pacific Railroad Company shall be, and it is hereby, declared to be a military and post road; and for the purpose of insuring the carrying the mails, troops, munitions of war, supplies and stores of the United States, no act of the company, nor any law of any State or Territory, shall impede, delay or prevent the said company from performing its obligations to the United States in that regard; *Provided*, That said road shall be subject to the use of the United States for postal, military, and all other governmental services, at fair and reasonable rates of compensation, not to exceed the price paid by private parties for the same kind of service, and the government shall at all times have the preference in the use of the same for the purpose aforesaid.

SEC. 20. That it shall not be lawful for any of the directors, either in their individual capacity or as members of an incorporated or joint stock company, to make any contracts or agreements with the Texas Pacific Railroad Company for the construction, equipment, or running of its road, or to have any interest therein; and all such contracts or agreements are hereby declared null and void, and all money or property received under such contracts or agreements may be recovered back for the benefit of the company by any stockholder.

SEC. 21. That any railroad company whose route lies across the route of the Texas Pacific railroad, may cross the same, and for the purpose of crossing shall have the right to acquire at the double minimum price all lands, whether of the United States or granted by this act, which shall be needed for a right of way two hundred feet wide through said lands, and for depots, stations, side-tracks, and other needful purposes, not exceeding for such purposes forty acres at any one station.

SEC. 22. That the New Orleans, Baton Rouge and Vicksburg Railroad Company, chartered by the state of

Louisiana, shall have the right to connect by the most eligible route to be selected by said company with the said Texas Pacific railroad at its eastern terminus, and shall have the right of way through the public land to the same extent granted hereby to the said Texas Pacific Railroad Company; and in aid of its construction from New Orleans to Baton Rouge, thence by the way of Alexandria, in said State, to connect with the said Texas Pacific Railroad Company at its eastern terminus, there is hereby granted to said company, its successors and assigns, the same number of alternate sections of public lands per mile, in the State of Louisiana, as are by this act granted in the State of California, to said Texas Pacific Railroad Company; and said lands shall be withdrawn from market, selected, and patents issued therefor, and opened for settlement and pre-emption, upon the same terms and in the same manner and time as is provided for and required from said Texas Pacific Railroad Company, within said State of California: *Provided*, That said company shall complete the whole of said road within five years from the passage of this act.

SEC. 23. That, for the purpose of connecting the Texas Pacific railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California, by the act of July twenty-seven, eighteen hundred and sixty-six: *Provided, however*, That this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company.

Approved, March 3, 1871.

SECTION 3 OF THE ATLANTIC AND PACIFIC ACT (14 UNITED STATES STATUTES AT LARGE, P. 292).

Sec. 3. *And be it further enacted*, That there be, and hereby is, granted to the Atlantic and Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific Coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war and public stores over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said Railroad line, as said company may adopt, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any State, and whenever, on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights, at the time the line of said road is designated by a plat thereof filed in the office of the Commissioner of the General Land Office; and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd members, not more than ten miles beyond the limits of said alternate sections and not including reserved numbers: *Provided*, That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act: *Provided, further*, That the railroad company receiving the previous grant of land

may assign their interest to said "Atlantic and Pacific Railroad Company," or may consolidate, confederate and associate with said company upon the terms named in the first and seventeenth sections of this act: *Provided, further*, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultual lands in odd-numbered sections nearest to the line of said road, and within twenty miles thereof, may be selected as above provided: *And provided, further*, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal: *And provided, further*, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said Atlantic and Pacific Railroad.

SECTION 18, OF THE ATLANTIC AND PACIFIC ACT (14 UNITED STATES STATUTES AT LARGE, P. 292).

SEC. 18. *And be it further enacted, That the Southern Pacific Railroad, a company incorporated under the laws of the State of California, is hereby authorized to connect with the said Atlantic and Pacific Railroad, formed under this act, at such points, near the boundary line of the State of California, as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road; and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific Railroad herein provided for.*

FORFEITURE ACT OF FEBRUARY 28, 1885.

CHAP. 265.—*An act to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all lands granted to the Texas Pacific Railroad Company under the act of Congress entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy one, and acts amendatory thereof or supplemental thereto, be, and they are hereby, declared forfeited, and the whole of said lands restored to the public domain and made subject to disposal under the general laws of the United States, as though said grant had never been made: *Provided*, That the price of the lands so forfeited and restored shall be the same as heretofore fixed for the even section within said grant.

SEC. 2. That the act of March third, eighteen hundred and seventy-five, entitled "An act for the relief of settlers within railroad limits," is hereby repealed.

Approved, February 28, 1885.

JOINT RESOLUTION CONCERNING THE SOUTHERN PACIFIC RAILROAD OF CALIFORNIA (16 UNITED STATES STATUTES AT LARGE, P. 382).

Be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Southern Pacific Railroad Company of California may construct its road and telegraph line, as near as may be, on the route indicated by the map filed by said company in the Department of the Interior on the third day of January, eighteen hundred and sixty-

seven; and upon the construction of each section of said road, in the manner and within the time provided by law, and notice thereof being given by the company to the Secretary of the Interior, he shall direct an examination of each such section by commissioners to be appointed by the President, as provided in the act making a grant of land to said company, approved July twenty-seventh, eighteen hundred and sixty-six, and upon the report of the Commissioners to the Secretary of the Interior that such section of said railroad and telegraph line has been constructed as required by law, it shall be the duty of the said Secretary of the Interior to cause patents to be issued to said company for the sections of land coterminous to each constructed section reported on as aforesaid, to the extent and amount granted to said company by the said act of July twenty-seventh, eighteen hundred and sixty-six, expressly saving and reserving all the rights of actual settlers, together with the other conditions and restrictions provided for in the third section of said act.

Approved, June 28, 1870.

and abandoning their proposed raid turned back and brought him safely to his friends and tribe, where he fully recovered and lived for many years. A few years after his return he made several shields, as directed by the *taíme*, one of which still exists in possession of Dr J. D. Glennan, U. S. A., now stationed at Fort Clark, Texas; he also made the sacred *ä'poto*, which he carried for some time in the annual sun dance, and afterward bestowed it upon his son (i. e., nephew) K'a-yä'ñti, who still lives, now an old man. Koñáte subsequently assumed the name of Pá-tadal, "Lean-bull," which he conferred later on its present owner, commonly known to the whites as Poor-buffalo.

Captain Pope, who visited the Hueco tanks in 1854, describes the peculiar formation of the cave springs and mentions the Gúadalóñte fight of some years before, his statements being evidently derived from the Mexicans, who were disposed to magnify their own part in the affair. He says:

> Besides the water contained in the tanks there are numerous holes and crevices in the mountains, which contain sufficient for every purpose to last for a considerable time. It is proper to remark that animals can not drink from the tanks; the water is taken out in buckets and thrown down the rocks until all have been supplied. Thus watering is a matter of time and labor. The peculiar formation of these mountains, their innumerable caverns and hiding places, seem to have been intended for a refuge for the Indians; nor have they neglected to avail themselves of its advantages. In one instance, however, they "reckoned without their host." About fourteen years ago these Arabs of New Mexico, the Apaches, having made a desperate foray upon the Mexicans, retreated with their plunder to these mountains. The Mexicans surprised and surrounded them, hemming them up in the rocky ravine forming the eastern tank. Here an engagement took place, in which the Indians were totally defeated and nearly exterminated, only two or three escaping. It is said that upward of one hundred of them were killed (*Pacific Railroad, 1*).

FIG. 122—Winter 1857-58—Horses stolen.

WINTER 1857-58

The Kiowa camped this winter on Two-butte creek (*Ä'zót P'a*, "Driftwood creek"), a southern tributary of the Arkansas, below Bent's Fort in Colorado. A band of Pawnee came on foot and stole six bunches of horses, including all those of T'ébodal and Set-ängya; among them were three spotted mules. The Kiowa pursued the thieves for three days and came in sight of them at sunset; they intended to strike them next morning and get the stock, but that night a snowstorm came on and stopped the pursuit; however, they killed one Pawnee who had been crippled by the cold. The figure above the winter mark represents the stolen horses.

SUMMER 1858

Ädo-byúñi K'ádó, "Timber-circle sun dance." This dance was held on lower Mule creek, entering the Salt fork of the Arkansas from the

north, near the mouth of Medicine-lodge creek; it was so called because held in a natural circular opening in the timber, as indicated in the figure representing a circle of trees around the medicine lodge.

FIG. 123—Summer 1858—Timber-circle sun dance.

WINTER 1858-59

Gúi-k'áte Ehótal-de Sai, "Winter that Wolf-lying-down was killed." The figure above the winter mark represents a man shot through the body, his name being indicated by the connected figure overhead.

After the last sun dance, the Kiowa warriors made a great raid into Chihuahua and captured a number of horses. They had recrossed the Rio Grande and camped on the northern side, when they were attacked at sunrise by a pursuing party of Mexicans. The Indians fled and escaped, excepting Gúi-k'áte, "Wolf-lying-down," who rode a mare which was delayed by a colt in following, and was therefore unable to get away from the enemy, who shot and killed him.

FIG. 124—Winter 1858-59—Gúi-k'áte killed.

Set-t'aiñte and Set-imkía also went against the Ute this fall and found and attacked a single tipi on the upper South Canadian, killing one man and wounding several others.

SUMMER 1859

Ahíñ-dóha K'ádó, "Cedar-bluff sun dance." The figure at the side of the medicine lodge is intended to represent a cedar tree on a bluff.

FIG. 125—Summer 1859—Cedar-bluff sun dance.

This dance was held at a place known to the Kiowa as "Cedar bluff," on the northern side of Smoky-hill river (*Pe P'a*, "Sand river"), about opposite the mouth of Timber creek, near the present Fort Hays, Kansas. The Kiowa state that they went so far north on account of the abundance of buffalo in that vicinity. This dance is sometimes also called *Ăä'otón-de K'ádó*, "Timber-clearing sun dance," from the fact that most of the trees once there had been cut down.

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22759

Supreme Court

OF THE

United States

OCTOBER TERM, 1902.

No. 190.

Southern Pacific Railroad Company *et al.*, *Appellants,*

vs.

The United States, *Appellee.*

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

BRIEF FOR UNITED STATES.

Statement.

This is an appeal by the Southern Pacific Railroad Company and others, from a final decree of the United States Circuit Court of Appeals, for the Ninth Circuit, [Record 2369, 2470], affirming a final decree of the United States Circuit Court for the Southern District of California, [Record 773, 774], as to certain lands in California, the title to which was quieted in the United States by the courts below, and being those lands embraced in odd-numbered sections within

the thirty-mile limits of the grant to the Southern Pacific Railroad Company, made by section 23 of the act of Congress, approved March 3, 1871, [16 U. S. Stats. 573, 579], so far as such lands fall within the twenty-mile limits of the grant by the same act of Congress, made to the Texas Pacific Railroad Company, as shown by the map of general route filed in October, 1871, and withdrawn on that date by orders of the Interior Department, and amounting to about five hundred and fifty thousand acres.

By the act of Congress approved February 28, 1885, (see appendix) the grant to the Texas Pacific Railroad was forfeited and the lands restored to the public domain for noncompletion of the railroad to be built by that company under the act of March 3, 1871.

Lands Embraced by this Appeal.

The lands embraced in this appeal are situated in the southeasterly corner of California, and are bounded on the east by the Colorado river, on the south by Mexico, on the west by the westerly thirty-mile limit of the Southern Pacific Railroad grant, as constructed and definitely located in the year 1878, between Los Angeles and Yuma, and on the north substantially by the third standard parallel south.

None of these lands have been patented by the United States to the Southern Pacific Railroad Company, but a large part of them have been entered under the general land laws of the United States, by numerous persons, it having been uniformly held by the Interior Department, that these lands were excepted from and not operated upon by the grant to the Southern Pacific Railroad Company.

The present suit is a consolidation of three separate suits, brought by the United States in the United States Circuit Court for the Southern District of California, against the

Southern Pacific Railroad Company and others, and numbered respectively 587, 662 and 675 on the docket of that court.

By stipulation of parties and order of court, these three suits were consolidated and a single amended bill of complaint was filed on May 26th, 1896, [Record 253, 254, 255].

Case 587 was brought in the Circuit Court against the Southern Pacific Railroad Company for the lands embraced in the present appeal to this court, [Record 42], as to which lands both of the courts below granted a decree quieting the title of the United States, [Record 773, 2469].

Case 675 was brought for those lands embraced within the limits of a location of the Texas Pacific Railroad Company, which that company attempted to make from Yuma on the Colorado, thence running northwesterly through the San Gorgonio Pass, and thence southerly to San Diego. Both of the courts below decided that the Texas Pacific Railroad had not perfected a definite location of its line by the San Gorgonio Pass, and awarded those lands to the Southern Pacific Railroad Company outside of those in case No. 587.

Case 662 was brought to cancel a patent to a quarter section of land which was in fact embraced within the limits of the San Gorgonio route limits of the Texas Pacific railroad, and which had been settled upon and entered by one Crawford, under the homestead laws, and which land upon a contest in the General Land Office, between the Southern Pacific Railroad Company and Crawford, had been awarded to Crawford upon the ground that his settlement antedated the indemnity selection of the Southern Pacific Railroad, but which land was erroneously patented to the Southern Pacific Railroad Company, pending the appeal of that company to the Secretary of the Interior, [Record 175].

As to this quarter section of land, the Circuit Court dismissed the bill and adjudged the title to be in the Southern

Pacific Railroad Company, but upon appeal by the United States the decree of the Circuit Court was reversed in this respect, and the patent of the Southern Pacific Railroad Company was vacated *by a supplemental decree of the Circuit Court of Appeals, upon the appeal of the United States in case No. 588 in that court, which is not a part of the record here,* [See Southern Pacific Railroad v. United States, 109 Fed. Rep. 913, at page 926], *and need not be brought up for consideration, as no appeal has been taken from the decree of the Circuit Court of Appeals as to this tract of land, as appears from the Petition for Appeal and Assignment of Errors,* [Record 2471, 2473].

No appeal has been taken by the United States from the decree of the court below, awarding to the defendants the lands on the San Gorgonio route outside of those embraced within the twenty-mile limits of the Texas Pacific general route map, which were withdrawn by the General Land Office, prior to the definite location of the Southern Pacific Railroad.

And no appeal has been taken by the defendants from the decree of the Circuit Court upon the appeal of the United States, involving the quarter section of land entered by Crawford as a homestead.

The only lands embraced by this appeal are those within the Texas Pacific Railroad 20 mile limits, map of 1871, and Southern Pacific 30 mile limits, for which suit was originally brought in case 587 and embraced within the bill filed in the consolidated suit [Record 256] and more particularly described in the first article of the decree [Record 775, 776] and described also in the assignment of errors of the defendants, [Record 2473, 2474].

The question presented upon this appeal is as to the ownership of these land involving the determination whether by the

map of general route filed by the Texas Pacific Railroad Company in 1871, and the orders of withdrawal of said lands by the Interior Department in 1871, and other acts of the Texas Pacific Railroad and decisions of the Interior Department, they were excepted from the grant to the Southern Pacific Railroad Company, which filed its map of definite location between Los Angeles and the Colorado river thereafter and in January, 1878.

The Southern Pacific map of definite location is not printed, but it is stipulated between counsel concerning the printing of this record, that "the fifth section of the Southern Pacific Railroad as located and constructed filed with the Secretary of the Interior, with the Commissioners' report, upon said section on January 17, 1878," shall not be printed unless required, but shall accompany the record as an original document [Record 2431, 2432].

The report of the Commissioners to examine the road, which accompanied the map of definite location and which shows when it was made and filed, is a part of the record [Record 1422, 1423, 1440].

The answer of the defendants alleges: "Thereafter and prior to January 31, 1878, the said company definitely located and constructed the entire railroad provided for in said act of March 3, 1871."

To the amended bill filed in the three causes as consolidated [Record 255, 256], the defendants answered to the merits, [Record 268-293].

Section 1 of the Act of March 3, 1871, provided for the incorporation of the Texas Pacific Railroad Company, and provided for the construction of a railroad upon a line described as follows:

"From a point at or near Marshall, county of Harrison, state of Texas; thence by the most direct and eligible route,

to be determined by said company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona, to a point on the Rio Colorado, at or near the southeastern boundary of the state of California; thence by the most direct and eligible route to San Diego, California, to ship's channel, in the bay of San Diego, in the state of California, pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude, and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act."

Section 12 of the act provided for a reservation of lands for the company upon filing a map of *general route*, and withdrawal of lands prior to the definite location or construction of the road, in the following language:

"Said company within two years after the passage of this act, shall designate the general route of its said road as near as may be, and shall file a map of the same in the Department of the Interior; and when the map is so filed, the Secretary of the Interior, immediately thereafter, shall cause the lands within forty miles on each side of said designated route within the Territories and twenty miles within the state of California, to be withdrawn from pre-emption, private entry and sale."

Section 9 of the act made a grant to the company in the following language:

"That for the purpose of aiding in the construction of the railroad and telegraph line herein provided for there is hereby granted to the said Texas Pacific Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile on each side of said railroad line, as such line may be adopted by said company, through the Territories of the United States, and ten alternate sections of land per mile on each side of said railroad

in California where the same shall not have been sold, reserved or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached at the time the line of said road is definitely fixed. In case any of said lands shall have been sold, reserved, occupied or pre-empted, or otherwise disposed of, other lands shall be selected in lieu thereof by said company, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections first above named, and not including the reserved numbers. If, in the too near approach of the said railroad line to the boundary of Mexico, the number of sections of land to which the company is entitled cannot be selected immediately on the line of said railroad, or in lieu of mineral lands excluded from this grant, a like quantity of unoccupied and unappropriated agricultural lands, in odd-numbered sections nearest the line of said railroad, may be selected as above provided; and the word 'mineral,' where it occurs in this act, shall not be held to include iron or coal; *Provided, however*, That no public lands are hereby granted within the State of California further than twenty miles on each side of said road, except to make up deficiencies as aforesaid, and then not to exceed twenty miles from the lands originally granted. The term 'ship's channel, as used in this bill, shall not be construed as conveying any greater right to said company to the water front of San Diego Bay than it may acquire by gift, grant, purchase, or otherwise, except the right of way as herein granted; *And provided further*, That all such lands so granted by this section to said company, which shall not be sold or otherwise disposed of as provided in this act, within three years after the completion of the entire road, shall be subject to settlement and pre-emption like other lands, at a price to be fixed by, and paid to, said company, not exceeding an average of two dollars and fifty cents per acre for all the lands herein granted."

Section 23 of the act of March 3, 1871, under which the Southern Pacific Company and its assigns claim title to these lands, is in the following language:

"Sec. 23. That, for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco, the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to said Southern Pacific Railroad Company of California, by the act of July twenty-seven, eighteen hundred and sixty-six. *Provided, however, That this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company.*"

The material parts of the act of July 27, 1866, above mentioned in the act of 1871 are as follows:

"Sec. 3. *And be it further enacted:* That there be, and hereby is, granted to the Atlantic and Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile on each side of said railroad line, as said company may adopt, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any state; and whenever, on the line thereof, the United States have full title, not reserved, sold, granted or otherwise appropriated, and free from pre-emption or other claims or rights, at the time the line of said road is designated by the plat thereof, filed in the office of the Com-

missioner of the General Land office, and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers; *Provided*, That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act; *Provided, further*, That the railroad company receiving the previous grant of land may assign their interest to said 'Atlantic and Pacific Railroad Company,' or may consolidate, confederate, and associate with said company upon the terms named in the first and seventeenth sections of this act; *Provided, further*, That all mineral lands be, and the same are hereby, excluded from the operations of this act; and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections nearest to the line of said road, and within twenty miles thereof, may be selected as above provided; *And provided further*, That the word 'mineral,' when it occurs in this act, shall not be held to include iron or coal; *And provided further*, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said 'Atlantic and Pacific Railroad.'

"Sec. 18. *And be it further enacted*, That the Southern Pacific Railroad, a company incorporated under the laws of the state of California, is hereby authorized to connect with the said Atlantic and Pacific Railroad, formed under this act, at such point near the boundary line of the state of California, as they shall deem most suitable for a railroad line to San Francisco; and shall have a uniform guage and rate of freight or fare with said road, and in consideration thereof,

to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided; and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific Railroad herein provided for."

Texas Pacific Maps and Withdrawals.

The Texas Pacific Railroad, in compliance with section 12 of its grant, filed, on August 15, 1871, a map of its general route, from a point in Texas, to the Bay of San Diego, showing the line of route by what has been designated in this case as the "direct route" [Record 1545, 1546, 1548].

This map was received by the Interior Department and on September 27, 1871, by order of the commissioner of the general land office, all of the odd-numbered sections within twenty miles of the general route of the Texas Pacific Railroad were withdrawn and reserved [Record 1539, 1540, 1542].

That executive order and reservation remained in force and effect until after the grant was forfeited by the act of February 28, 1885, and until many years after the map of definite location of the Southern Pacific Railroad Company was filed.

The Texas Pacific Railroad Company was required, by section 9 of its charter, to definitely fix its line of road.

In further compliance with its charter, the Texas Pacific Railroad Company reported on July 1, 1874, to the secretary of the interior, *a description of the lines of route surveyed and fixed upon for construction, including a full and particular description of the line of route between Fort Worth, Texas, and San Diego, via the San Gorgonio pass.* [Record 1761, 1770.]

On June 30, 1876, the Texas Pacific Railroad filed in the

interior department, with its annual report, a small map showing the main and branch lines of its road and connections, including its line of railroad from the Colorado river at Yuma, via the San Gorgonio pass, to San Diego [Record 1772, 1774].

No action was taken by the interior department upon the San Gorgonio pass line of the Texas Pacific Railroad, other than to file the annual reports of the company and the map above mentioned, and no other maps were filed by that company, other than those two.

The San Gorgonio pass line has been protracted upon a plat showing 20, 30, and 40-mile limits, of the Texas Pacific and also showing the Southern Pacific route as definitely located with 20 and 30 mile limits, by Samuel G. Bennett for the government, which plat shows that the lands embraced by this appeal are not only within the limits of the Texas Pacific grant upon the San Gorgonio route, and the 20 mile limits of the general route map of the Texas Pacific, but also within the limits of the grant claimed by the Southern Pacific [Record 2093, 2098].

The lands decreed to the United States by the courts below, and as to which this appeal is taken by the Southern Pacific Railroad Company, and the other defendants, are embraced within the 20 mile limits general route map filed by the Texas Pacific Railroad on August 15, 1871, and which lands by section 12 of the act of March 3, 1871, were by operation of law upon the filing of said map, withdrawn from *pre-emption, private entry and sale.* These lands are also embraced in the order of the commissioner of the general land office of September 27, 1871, by which they were withdrawn from *pre-emption, homestead entry, private entry, and sale.* These lands are also embraced within the thirty-mile limits of the line of route surveyed and described in the re-

port of the Texas Pacific Railroad Company to the secretary of the interior on July 1, 1874, as a line surveyed and fixed upon for construction, from the Colorado River to San Diego by way of the San Gorgonio pass.

Southern Pacific Maps.

The Southern Pacific Railroad Company, claiming a grant of lands by section 23 of the act of March 3, 1871, filed on April 3, 1871, a map of its general route from Tehachapi pass, via Los Angeles, to the Colorado river at a point near Yuma. The map is certified on its face by the president of the company to be a map of *general route,* and it was received and filed as such by the commissioner of the general land office [Record 1362, 1363].

As it is sometimes pretended by the Southern Pacific Company that this map of 1871 is not a map of general route, but a map of definite location, the attention of the court is at this time particularly invited to the fact that the map is certified on its face by the president of the company to be a map of general route, and that it was filed and treated by the commissioner of the general land office as a map of general route.

It has been adjudged repeatedly in former litigations, that this particular map is a map of general route only.

United States v. Southern Pacific Railroad Co., 146 U. S., 570, at pages 599, 600, 601, 602, 603.

Southern Pacific Railroad v. United States, 168 U. S. 1, at page 42.

Southern Pacific Railroad v. United States, (C. C. A.) 98 Fed. 27, at page 29.

The Southern Pacific Railroad filed in five sections its map of constructed and *definitely located railroad* between Tehachapi pass and Yuma on the Colorado during the years from 1874 to 1878.

The three sections from Los Angeles to Yuma were filed as follows [Record 2430, 2431]:

Second section—From Spadra to R. 1 W., S. B. M. Filed November 8, 1875.

Third section—From R. 1 W. to R. 7 E. Filed July 10, 1876.

Fifth section—From R. 7 E. to Yuma. Filed January 17, 1878.

As these maps of definite location were filed, the limits of the grant were definitely adjusted and plats of definite withdrawal were prepared and filed in the local United States land offices.

These maps are certified by the officers of the company as correctly showing the line of its route as finally located and constructed and are a part of the record in the cause as original documents, but are not printed, in pursuance of a stipulation of counsel that they shall not be printed unless required, it being stipulated that the "* * * section of Southern Pacific railroad as located and constructed, filed with the secretary of the interior with the commissioner's report upon said section," shall not be printed [Record 2430, 2431]. That these sections embraced the lands in controversy appears from the commissioners' report [Record 1422, 1423, 1440].

We, therefore, have the date of definite location of the Southern Pacific railroad through the lands in controversy, to-wit, *January*, 1878.

Lands Claimed by Defendant, Colorado River Irrigation Company.

On December 8, 1893, the Southern Pacific Railroad Company, entered into a contract with defendant, Colorado River Irrigation Company, by which the railroad agreed, upon certain terms and conditions, to sell to the irrigation company a large part of the lands embraced by the bill in this case, which are roughly shown by a map attached to the contract, and described as follows:

Being bounded "on the south the international line separating California from Mexico; on the north the railroad station at Indio, in Riverside county, California; on the east and west, the east and west branches of the canals of said Colorado River Irrigation Company, as finally surveyed and located by said party of the second part, and generally designated by the annexed map marked 'A' and made a part hereof." [Recorded 859-870].

Nothing was paid down upon this contract at the time of its execution, and nothing has since been paid in money, but it is contended by the irrigation company that it has expended considerable amounts in the acquisition of rights of way and for construction in connection with a general scheme for irrigation of land in California and in Mexico, and embracing, as a part of the scheme, the lands covered by this contract [Record 2167, 2177, 2178].

The principal object of this contract, as set forth in the contract itself, in the third paragraph thereof, appears to have been to employ the irrigation company, in consideration of one dollar and twenty-five cents per acre deducted from the purchase price, to procure from congress the passage of an act to confirm the title in the Southern Pacific Railroad, or its assigns, to these lands, in view, doubtless, of the fact that these lands were reserved for the Texas Pacific Railroad Com-

pany, and excepted out of the grant to the Southern Pacific, as decided in the interior department in the decision of Secretary Lamar of November 2, 1885 [Record 1549, 1559].

Both of the courts below decreed all of these lands to the United States, [Record 773, 2469].

None of these lands were patented by the United States and the courts below by their decrees adjudged in effect that the Colorado River Irrigation Company had no title to them *and it was perpetually enjoined from having or claiming any right, title or interest to any of them.* [Record 775].

POINTS AND AUTHORITIES.

FIRST.

These lands which were set apart and reserved by the provisions of Section Twelve of the Act of March 3, 1871, and embraced by the general route map of the Texas Pacific Railroad and reserved by executive orders on September 27, 1871, cannot be operated upon or taken by the Southern Pacific Railroad Company under its grant of same date.

The grants to the Texas Pacific and to the Southern Pacific Railroads, being by the same act, if the respective rights of each had not been fixed and their priorities determined by the act, each company would have been entitled to an undivided moiety, their rights and equities in that case would have been equal.

Chicago Railroad v. Sioux City Railroad, 117 U. S. 406;
Southern Pacific Railroad v. United States, 183 U. S., 519.

It is well settled in the construction of grants of public lands and franchises, that where any doubt or ambiguity exists, it should be resolved in favor of the public and the state and construed most strongly against the grantee.

Leavenworth Railroad v. United States, 92 U. S. 733, 740;

Siddell v. Grandjean, 111 U. S. 412, 437, 438;

Coosaw Mining Co. v. South Carolina, 144 U. S. 550, 562;

Atlantic and Pacific Railroad v. Mingus, 165 U. S. 413, 429.

In construing the act of March 3, 1871, we find at the outset that section 9 of the act made a grant to the Texas Pacific Railroad Company in fee and *in praesenti* of *"every alternate section of public land * * * * * designated by odd numbers to the amount of * * * * * ten alternate sections of land per mile on each side of said railroad in California * * * * * ."*

By section 23 of the same act a grant is made to the Southern Pacific Railroad Company which conflicts with that made by section 9 to the Texas Pacific Railroad, but to remove any question of conflict and so that effect may be given to all the parts of the act, and so that the rights and priorities of the respective roads may be defined, we find that it is provided by section 23, making a grant to the Southern Pacific Railroad Company, as follows:

"Provided, however, that this section shall in no way affect or impair the rights present or prospective of the Atlantic and Pacific Railroad Company, or any other railroad company."

The late Mr. Justice Lamar, when secretary of the interior, had no difficulty in construing this act and in his decision of November 2, 1885, adopting the opinion of Assistant At-

torney-General Montgomery, he held that it was not the intention of Congress to grant to the Southern Pacific Railroad Company any of the lands falling within the twenty-mile limits of the Texas Pacific Railroad as withdrawn by the interior department upon the map of general route in 1871, and that the proviso of section 23 above quoted, clearly excepted those lands from the operations of the Southern Pacific grant, [Record 1549, 1559].

Texas Pacific Railroad Company and Southern Pacific Railroad Company, 4 L. D., 215, 220.

And in that decision it is said:

"In order to determine what construction it is proper to give to the granting clause of section 23 of the above act of March 3, 1871, let us consider the legal rules laid down by the Supreme Court of the United States for the interpretation of granting acts of this character. In the case of the 'Dubuque and Pacific Railroad Company v. Litchfield' (23 Howard, 88), the Supreme Court says:

" 'All grants of this description are strictly construed *against the grantees;* nothing passes but what is conveyed in clear and explicit language; and as the rights here claimed are derived entirely from the act of congress, the donation stands on the same footing as a grant by the public to a private company, the terms of which must be plainly expressed in the statute; and if not thus expressed they cannot be implied." * * *

"The same rule of construction as that above laid down in 23d Howard has been again and again reiterated by the Supreme Court of the United States—notably in the case of the Leavenworth, Lawrence & Galveston R. R. Co. v. the United States (92 U. S., 740). * * * * * *."

"As we have seen, the closing words of said section 23 of the act above quoted—the section under which the Southern Pacific Company claims the lands in question are as follows:

" '*Provided, however, That this section shall in no way affect*

or impair the rights, present or prospective, of the Atlantic and Pacific Company, or any other railroad company.'

"Now in view of the fact that this same act, in its preceding sections, had already declared that the 'Texas Pacific' was thereby constituted an incorporated railroad company, and was granted certain lands; including *all* the odd-numbered sections now in dispute, it is difficult to see how it would have been possible more clearly to except said lands from the operation of said grant to the Southern Pacific, than by providing that the latter grant should not 'affect or impair the rights, present or prospective, of any other railroad company." * * * * *

"If the act of Congress under which the Southern Pacific Railroad Company claims its grant had been a penal statute, where every intendment must be taken most strongly against the government, instead of a statute granting lands, where every intendment must be taken *most strongly against the grantee* and *in favor* of the government; * * *"

"But it can scarcely be presumed that congress, while in the very act of incorporating the Texas Pacific Railroad Company, and granting to it certain lands in order to enable it to work out the objects of its creation, could have intended to exclude it from the beneficial effects of a clause specifically declared to be for the protection of the rights of the Atlantic and Pacific Railroad Company *'and all other railroad companies,'* against all claims of the Southern Pacific based upon section 23 of the aforesaid act."

"Again: It is a recognized rule of construction, alike application both to statutes and to contracts, that where one construction will give force and effect to every part of a statute—or of a contract—while a different construction would produce a conflict between different parts thereof, the former construction must be adopted. And in this case it is clear that if we so construe said section 23 as to make it pass to the Southern Pacific Railroad Company *any* of the odd-numbered sections of land within the grant limits of the Texas Pacific, such a construction would bring said section into palpable conflict with section 9 of the same act

whereby *all* the odd-numbered sections within said limits were granted to the Texas Pacific. If, however, we give to said *proviso* embodied in section 23 its literal meaning as above suggested, no such conflict will be found; and all the parts of said act will stand in perfect harmony with each other."

Pursuant to that decision of Secretary Lamar, in 1885, those lands were restored to the public domain and entries under the general settlement laws and other general land laws, have ever since been allowed to a large number of persons, and embracing a large part of these lands.

The decision of Mr. Justice Lamar of 1885 has been subsequently adhered to in the interior department.

This construction of the act of 1871 by the interior department so long acted upon and under which rights of a very large number of persons have attached, will not be disturbed, unless clearly erroneous.

In United States v. Philbrick, 120 U. S., 52, 59, the court said:

"A contemporaneous construction by the officers upon whom was imposed the duty of executing those statutes is entitled to great weight; and since it is not clear that that construction was erroneous, it ought not now to be overturned. See Hahn v. United States, 107 U. S. 405, and Brown v. United States, 113 U. S. 571, and authorities cited in each case."

In Hastings, etc., Railroad Co. v. Whitney, 132 U. S. 357, 366, Mr. Justice Lamar, speaking for the court, said:

"The conclusion at which we have arrived is in harmony with the later rulings of the Land Department. See Graham v. Hastings & Dakota Railroad (this case), 1 Land Dec. 380; St. Paul, &c., Railway v. Forseth, 3 Land Dec. 457; So. Minn. Railway v. Gallipean, 3 Land Dec. 166; Hastings & Dakota Railway v. United States, 3 Land Dec. 479; St. Paul, &c., Railway v. Leach, 3 Land Dec. 506; Hastings & Dakota

Railway v. Whitall, 4 Land Dec. 249; and many others of like tenor and effect.

"It is true that the decisions of the land department on matters of law are not binding upon this court, in any sense. But on questions similar to the one involved in this case they are entitled to great respect at the hands of any court. In United States v. Moore, 95 U. S. 760, 763, this court said: 'The construction given to a statute by those charged with the duty of executing it is always entitled to the most respectful consideration, and ought not to be overruled without cogent reasons. * * * * *'

" 'The officers concerned are usually able men, and masters of the subject. Not unfrequently they are the draftsmen of the laws they are afterwards called upon to interpret.' See also Brown v. United States, 113 U. S. 568, 571, and cases there cited; United States v. Burlington, &c., Railroad, 98 U. S. 334, 341; Kansas Pacific Railroad v. Atchison Railroad, 112 U. S. 414, 418."

To a similar import are numerous other decisions of this court including the following:

United States v. Alabama Railroad Company, 142 U. S. 615, 621;

Hewitt v. Schultz, 180 U. S. 139, 149, 151, 156.

In the latter case the court said:

"Of course if the ruling of that office was plainly erroneous, it would be the duty of the court to give effect to the will of Congress, for it is the settled doctrine of this court that the practice of a department in the execution of a statute is material only when doubt exists as to its true construction;" and the court further said:

"That in case of ambiguity the judicial department will lean in favor of a construction given to a statute by the department charged with the execution of such statute, and if such construction be acted upon for a number of years, it will look with disfavor upon any sudden change whereby

parties who have contracted with the government upon the faith of such construction may be prejudiced."

In the more recent case of Southern Pacific Railroad v. United States, 183 U. S., 519, 525, 527, 528, the court adhered to the decision of Mr. Justice Lamar, when secretary of the interior, construing the act of congress of July 27, 1866, as granting to the Atlantic and Pacific Railroad and Southern Pacific Railroad, equal moieties in the common place limits.

In Southern Pacific Railroad Company v. Bell, 183 U. S. 675, 681, the court adhered to the construction of the interior department in holding that no title passes to railroad indemnity lands until selected and such selection had been approved, and in holding that the term "land hereby granted" did not embrace lands within the indemnity limits of railroad grants and in that case the court said:

"The same question arose in Northern Pacific Railroad v. Davis, 19 Land Dec. 87, and in Northern Pacific Railroad v. Ayers, wherein Secretaries Smith and Francis expressed their concurrence in the views announced by Secretaries Lamar and Vilas.

"The court rested its decision largely upon this concurrence of views and long continued practice of the land department, and summed up its opinion in the following words: 'If this were done,' (that construction overthrown,) 'it is to be apprehended that great if not endless confusion would ensue in the administration of the public lands, and that the rights of a vast number of people who have acquired under the pre-emption and homestead law, in reliance upon the ruling of Secretary Vilas and his successors in office, would be destroyed * * * * * If the practice in the land department could, with reason, be held to be wrong, it cannot be said to have been so plainly or palpably wrong as to justify the court, after the lapse of so many years, in adjudging that it had misconstrued the act of July 2, 1864.'"

It is contended on behalf of the government in the present case, that the provision in section 23 of the act making the grant to the Southern Pacific Railroad Company that "this section shall in no way affect or impair the rights present or prospective * * * * * of any other railroad company," is a clear and comprehensive declaration by congress fixing the priorities of the two roads, and operates to wholly exclude from the Southern Pacific Company any right to any lands to which the Texas Pacific Railroad Company, or any other railroad company had either a present or *prospective* right, and that these lands which are embraced by the twenty-mile limits of the Texas Pacific general route map of 1871, which were reserved to that company by the provisions of section 12 of the act of March 3, 1871, and which lands were expressly reserved and withdrawn by executive orders for the benefit of that company, are lands to which the Texas Pacific Railroad Company had, if not a *present* right, at least a *prospective* one. This was the view of both courts below, and as before shown, has been the view and construction adopted by the interior department for at least seventeen years, during which period the whole public have been allowed to enter these lands as a part of the public lands of the United States.

The precise question here presented, we think has been determined by this court in United States v. Southern Pacific Railroad Company and United States v. Colton Marble and Lime Company, 146 U. S., 615, 619, in which this court pointed out that whatever may be the rule with respect to conflicts between other land grants, that this provision was specially inserted in the Southern Pacific grant in order to determine the priorities in case of conflict, and in which case the court said: (146 U. S. 616, 617.)

"One thing which distinguishes the grant of 1871 to the Southern Pacific Railroad Company from most, if not all

other, land grants is the proviso somewhat considered in the opinion in the former cases, and which reads:

"'Provided, however, That this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company.'

"What is the significance of this proviso? Without it, certainly the Southern Pacific, its grant being of later date, would be postponed to the Atlantic and Pacific; and on the filing by each company of a map of definite location, the title to the lands within the granted limits would vest in the Atlantic and Pacific Company, to the total and absolute exclusion of all claims on the part of the Southern Pacific. The proviso, therefore, was without significance, in respect to such lands. It in no manner strengthened the title of the Atlantic and Pacific, and took nothing away from the Southern Pacific. Yet it cannot be supposed that this proviso was meaningless, and that congress intended nothing by it. Carefully inserted, in a way to distinguish this grant from ordinary later and conflicting grants, it must be held that congress meant by it to impose limitations and restrictions different from those generally imposed in such cases, *and it in substance declared that the Southern Pacific Company should not in any event take lands to which any other company had at the time a present or prospective right.*"

The Circuit Court of Appeals for the Ninth Circuit expressed the following views concerning the proper construction to give to this proviso, [Record 2449, 2450; 109 Fed. Rep. 917]:

"Had the Texas Pacific Railroad Company, or any other railroad company, acquired any *present* or *prospective* right to any of the lands embraced in this suit at the time the grant was made by the government to the Southern Pacific Railroad Company, March 3, 1871? The answer to this question will dispose of the appeal taken herein by the Southern Pacific Company, and will be found in the opinion of the court in U. S. v. Colton Marble & Lime Co., 146 U. S.

615, 13 Sup. Ct. 163, 36 L. Ed. 1104. It is true that in that case the court confined itself to the conflicting claims of the Southern Pacific and the Atlantic & Pacific Company; but, by reference to the proviso in the grant to the Southern Pacific, it will be seen that it also includes 'present or prospective' rights of *'any other railroad company;'* and it therefore necessarily follows that the views expressed by the Supreme Court in that case apply with equal force to the conflicting claims, if any, between the Southern Pacific and the Texas Pacific, because whatever rights the Texas Pacific Company ever acquired to any of the lands in question continued to exist until the act of forfeiture passed by congress February 28, 1885, and as long before that time the Southern Pacific Company had built the road it was authorized to construct, and filed in the general land office maps showing its definite location, it necessarily follows that if at the latter date the lands in suit, or any of them, were for any reason reserved, or were lands to which the Texas Pacific Company had acquired a present or prospective right, such lands did not pass to the Southern Pacific Company under its grant. For as to such lands the Texas Pacific Company certainly had a 'prospective,' if it did not have a 'present right.' Inasmuch as the grants to the Southern Pacific and Texas Pacific Railroad Companies were given by the same act, and of the same date, the ordinary and usual rule would be to give each of said companies one-half of such lands as were within both grants. But the case under consideration is taken out of the ordinary rule by the proviso annexed to the grant to the Southern Pacific Company."

On behalf of the government, it is not contended here that the bare filing of a map of general route alone would, under ordinary circumstances, confer upon any railroad company a vested right to lands embraced within the limits of the grant claimed thereunder. Neither is it contended that if Congress had shown an intention to do so that it could not have granted

by a later act lands falling within the limits of a grant embraced by a map of general route.

What we do claim is that the filing of a map of general route by a railroad company, together with a legislative and executive withdrawal, confers upon that company a *prospective right* to the lands within the limits described.

A "prospective right" is different from a vested right in this, that the word "prospective" is defined in the dictionaries as "being still in the future or in expectation; anticipated; marked by foresight, as a prospective scheme or mind."

It must then be admitted that the Texas Pacific Railroad had a *prospective* right to those lands which it reasonably expected or hoped to acquire under its grant, and that by the proviso "Congress meant to impose limitations and restrictions different from those generally imposed."

Not only did the Texas Pacific Railroad acquire a *prospective* right to the lands by filing its map of general route, but it acquired something more than that; it secured, while but an *imperfect* and *inchoate* right, still a *right* to the lands which could be asserted against third parties.

In Northern Pacific Railroad v. Sanders, 166 U. S. 620, 634, 635, 636, the Court said:

"The company acquired by fixing its general route only an inchoate right to the odd-numbered sections granted by Congress, and no right attached to any specific section until the road was definitely located and the map thereof filed and accepted. Until such definite location it was competent for Congress to dispose of the public lands on the general route of the road as it saw proper."

The right of the company, then, was an "inchoate right," subject to be defeated by the will of congress, but still a *right* which would properly be something more than a *prospective* right.

In United States v. Oregon and California Railroad Co., 176, U. S. 28, the court quoted with approval what was said in Northern Pacific v. Sanders, and further held that where congress had shown an *intention* to do so that the mere filing of a general route map did not prevent congress from disposing of the lands embraced thereby by later act granting lands to another road. In the latter case there was no legislative reservation or executive order withdrawing or reserving the land of any kind or nature, and the court said (176 U.S. 54)

"There never was any withdrawal of indemnity lands on the proposed line of the Northern Pacific Railroad Company between Wallula and Portland, nor was there any definite location or construction of its road opposite to the lands in suit."

The court was there dealing with a case where congress had expressed an intention, a purpose, to grant those lands to the Oregon Railroad, *and they had not been withdrawn or reserved.*

In the present case congress has declared that those lands to which the Texas Pacific Railroad had a present or prospective right shall not be taken by the Southern Pacific.

Effect must be given to the intention of congress.

Missouri Railroad v. Kansas Railroad, 97 U. S. 491, 497.

United States v. Southern Pacific Railroad, 146 U. S. 570, 619.

In Missouri Railroad v. Kansas Railroad, *supra,* the court said:

"It is always to be borne in mind, in construing a congressional grant, that the act by which it is made is a law as well as a conveyance, and that such effect must be given to it as will carry out the intent of congress. That intent should not be defeated by applying to the grant the rules

of the common law, which are properly applicable only to transfers between private parties. To the validity of such transfers it may be admitted that there must exist a present power of identification of the land; and that where no such power exists, instruments, with words of present grant, are operative, if at all, only as contracts to convey. But the rules of the common law must yield in this, as in all other cases, to the legislative will."

It has been decided again and again that the withdrawal of lands on general route maps is for the purpose of preserving the grant for the company to be aided.

Buttz v. Northern Pacific, 119 U. S. 55, 72.

St. Paul Rd. v. Northern Pacific, 139 U. S. 1, 17, 18.

Northern Pacific v. Musser-Sauntry Land Co., 168 U. S. 604, 607.

Certainly effect can be given to the intention of Congress, and in filing the map and issuance of withdrawal orders a *prospective* if not a present right was conferred upon the Texas Pacific.

(*b*) The grant to the Southern Pacific was only of those odd-numbered sections of public land to which the United State had

"full title, *not reserved*, sold, granted or otherwise appropriated, and *free from pre-emption or other claims* or rights at the time the line of said road is designated by a plat thereof filed * * *."

By a long line of decisions, and with no ruling to the contrary, it has been maintained as a settled doctrine that lands *reserved* by executive orders are not operated upon by a subsequent grant in aid of a railroad or other public improvement.

Wolcott v. Des Moines Co., 5 Wall. 681;

Wolsey v. Chapman, 101 U. S. 755;

United States v. Missouri Railroad, 141 U. S. 374;
Hamblin v. Western Land Co., 147 U. S. 531, 536;
Wisconsin Railroad v. Forsythe, 159 U. S. 46, 54;
Northern Pacific R. R. Co. v. Musser-Sauntry Land Co., 168 U. S. 604.

The act of congress, under which the Southern Pacific claims title, having determined the rights and priorities of the respective roads, it cannot be open to doubt but that so far as the Texas Pacific grant is concerned, the Southern Pacific grant is a junior one, and must be treated as subordinated to the other.

The Southern Pacific Company filed its map of definite location in *1878*, and the withdrawal was made for the Texas Pacific Railroad in *1871*, and the reservation was in full force when the Southern Pacific filed its map of definite location.

In Northern Pacific v. Musser-Sauntry Co., 168 U. S. 604, at page 611, the court said:

"When a withdrawal of lands within indemnity limits is made in aid of an earlier land grant, and made prior to the filing of the map of definite location by a company having a later grant—the latter having such words of exception and limitation as are found in the grant to the plaintiff—it operates to except the withdrawn lands from the scope of such later grant."

This decision, supported by a score of former ones, has not been overruled or qualified by any other case.

The case of United States v. Oregon Railroad, *supra*, has no application to the present case or to the Musser-Sauntry case, for the reason that in that case there was no reservation or withdrawal of lands, as in the present case, and for the further reason that here the intention of congress, not to grant these lands to the Southern Pacific, but to reserve them for the Texas Pacific, is manifest.

SECOND.

Lands reserved by section twelve, Act March 3, 1871, for Texas Pacific Railroad and covered by its map of 1871, and withdrawn by executive orders, cannot be taken by the Southern Pacific as indemnity.

Some of the lands embraced by the decree of the courts below, and from which this appeal is taken, are lands falling within the twenty-mile limits of the Texas Pacific Railroad, as located by the map of 1871, and withdrawn for that company and intersected by the *indemnity limits* of the grant to the Southern Pacific Railroad Company, and it is now contended by the Southern Pacific that if it cannot take lands within its place limits, by reason of the *present or prospective right*, to them of the Texas Pacific Railroad, that yet it may select them as *indemnity* to supply deficiencies within the place limits of the Southern Pacific grant.

All that has been said by the interior department, by the courts below, and by this court, as to the effect to be given to the proviso of section 23, applies with equal force to any claim made to them by the Southern Pacific, either as granted lands or as indemnity lands.

The construction given by all of the courts and by the interior department to the proviso of section 23, is, *"that the Southern Pacific Company should not in any event take lands to which any other company had at the time a present or prospective right."*

The present contention of the Southern Pacific Company was elaborately pressed by that company in Southern Pacific Railroad Company v. United States, in 168 U. S. 1, 66, concerning lands within the *indemnity* limits of the Southern Pacific grant and within both the place limits and *in-*

demnity limits of the Atlantic and Pacific grant, but the court denied the contentions of the Southern Pacific Company and affirmed the decrees of the two courts below quieting the title of the United States to such lands and perpetually enjoining the Southern Pacific Company from claiming them.

In that case the court said: (168 U. S. pp. 46, 47.)

"The lands now in controversy are situated opposite to and are conterminous with the first, second and fourth sections of the Southern Pacific Railroad as constructed between 1873 and 1877, inclusive, and within the primary and *indemnity limits* of the grant to the Southern Pacific Railroad Company made by the 23d section of the Texas and Pacific act of March 3, 1871; the 61,939.62 acres patented to that company being opposite to the first and fourth sections of its road. It may be said that the lands here in dispute belong to one or the other of the following classes: Lands within the common granted limits of both the Atlantic and Pacific grant of 1866 and the Southern Pacific grant of 1871; lands within the granted limits of the Southern Pacific grant; and the indemnity limits of the Atlantic and Pacific grant, *lands within the Southern Pacific indemnity limits and the Atlantic and Pacific granted limits; lands within the common indemnity limits of both grants.* Of these in dispute 219,012.93 acres have not been surveyed by the United States."

In respect to all of these classifications of land, the court held in that case, 168 U. S., 62, "it must be for the reasons stated in the former decision that the United States is entitled as between it and the Southern Pacific Railroad Company to the relief given by the decree below."

The court there adjudged that none of those lands could be taken by the Southern Pacific as indemnity.

This construction of the court to the proviso of section 23 has been followed and adhered to by both the Circuit Court

and Circuit Court of Appeals, in the present case, and is in full harmony with the decisions of the interior department.

In Smead v. Southern Pacific Railroad, 29 L. D., 135, and in 26 L. D., 597;

Southern Pacific Railroad Co., 6 *id.* 816;

Moore v. Kellogg, 17 *id.*, 391-392;

Southern Pacific Railroad Company v. Moore, 11 *id.*, 534;

Southern Pacific Railroad Company, 15 *id.*, 460;

the interior department has decided that neither lands within the primary limits, nor the indemnity limits, of the Atlantic and Pacific grant can be selected by the Southern Pacific Railroad Company as indemnity.

This court has said that the Southern Pacific could not take *any land* to which another company had a *prospective right.*

It stands to reason that if the Southern Pacific Railroad Company cannot take these lands as granted lands, it should not permitted to take them as indemnity, because they are excluded from the Southern Pacific grant by reason of the intention of congress that they should not be taken at all.

Sioux City Railroad v. United States, 159 U. S. 349, and Chicago Railroad v. United States, 159 U. S., 372, 375, involved a similar question, in which latter case the court said:

"As decided in the other case, no part of the lands granted in aid of the construction of one road could be applied in aid of the other road. The act is to be interpreted as if congress by one act made a grant to the state in aid of the construction of the Sioux City road on the route designated, and, by another and separate act, passed at the same time, made a grant to the state in aid of the construction of the other road from South McGregor to a point of intersection within the Sioux City road * * * * * *."

"If, as matter of law and fact, these lands were never granted for the benefit of the Milwaukee road, but were granted in aid of the construction of the Sioux City road, and for no other purpose, they could never—consistently with the act of congress—have been used by the state for the benefit of the Milwaukee road. Sioux City & St. Paul Railroad v. United States, *ante*, just decided.

"It is, therefore, of no concern to the Milwaukee company, as the successor in right of the McGregor company, what was done with them by the state, nor whether the United States legally reacquired title to them as against the Sioux City company. It is in no position to question the decree on the original bill establishing the title of the United States as against the Sioux City company, and it is estopped by the decree in the suit which it brought to make any claim whatever to these lands. If, as has been conclusively adjudged, the Milwaukee company was without title or claim as against the Sioux City company, no rights could subsequently accrue to it by reason of the decree declaring that these lands reverted to the United States, by reason of the failure of the Sioux City Company and of the state to construct the road over the entire route from Sioux City to the Minnesota line. As these lands were set apart exclusively for the construction of the Sioux City road, no failure to construct that road by the state or by the corporation charged with the duty of building it, could, in any case, without the assent of congress justify their being applied in aid of the construction of another and distinct road."

Aside from the authority upon this question, as shown by the cases last above mentioned, the direct decisions of this court and of the interior department, in the construction of this proviso of section 23, holding *"that the Southern Pacific Company should not in any event take lands to which any other company had at the time, a present or prospective right,"* ought to remove every ambiguity and doubt as to the proper construction to be given.

Especially is this true where the public have for more than 17 years acted upon the construction given to this section by the interior department, by entering these lands as a part of the public domain, and where the decision of this court in 146 U. S. 615, 619, declaring the purpose and effect of this proviso, has been operative and unreversed for more than ten years.

The very recent case of Clark v. Herington, 186 U. S. 206, is upon principle decisive of the principle and in harmony with the cases above cited in which the court held that one road could not take as indemnity the *even* sections in the place limits of a grant to another road.

If the even-numbered sections cannot be taken as indemnity, there are much stronger reasons for holding that the odd-numbered sections which were granted to the other road, should not be taken.

In the present case the Texas Pacific grant being lands to which that company had a present or prospective right, were forfeited to the United States, and as this court has decided again and again, such forfeitures are for the benefit of the United States and not for the benefit of another company.

United States v. Southern Pacific Railroad, 146 U. S., 570; 146 U. S. 615; 168 U. S. 1.

The United States had the power to forfeit the Texas Pacific grant, and to devote that grant to another company to secure the construction of the road to San Diego, or to sell the lands and devote the proceeds for that purpose, or to dispose of the lands under other laws, as might be determined by Congress, and it was a matter of no concern to the Southern Pacific what the United States did with these lands. The grant to the Southern Pacific was not enlarged by reason of the forfeiture of the Texas Pacific grant, and if the lands

had not been forfeited they never could have been taken by the Southern Pacific Company under its grant.

THIRD.

The defendants Central Trust Company and D. O. Mills and Homer S. King, trustees, under the mortgages of the Southern Pacific Company, are not *bona fide* purchasers.

It was contended by counsel for defendants in the courts below, and is assigned as error here [Record 2476], that the defendants Central Trust Company, and D. O. Mills and Homer S. King, who were trustees in the several mortgages or deeds of trust, made by the Southern Pacific Railroad Company to secure bonds issued by that company, are bona fide purchasers of these lands.

This contention has no merit as an original proposition and has been frequently decided against the defendants in former litigations in this court.

(*a*) These instruments were executed to these trustees by the Southern Pacific Railroad Company to secure certain bonds issued by the railroad company, [Record 1155, 1160, and Record 1100, 1130].

In Perry on Trusts, Volume 2, section 602, *d.*, it is said:

"A mortgage is a pledge or security for a debt, whatever may be the form which the transaction takes, whether a simple mortgage deed in form, or a mortgage with a power of sale, or a deed in trust or a deed absolute on its face, accompanied by an agreement in writing to re-convey, or to sell, or to do any other thing upon the payment of a certain sum of money, courts of equity look upon it as a mortgage, and deal with it as such. The test in all these forms is this: Does the transaction resolve itself into a security for the payment of a sum of money or a debt, and until a default in the payment

of a sum of money or a debt, has the grantor any right to pay the money and keep or receive back the title to his property? And it is immaterial that the conveyance is made to a third person, and not to the creditor himself."

The act of Congress of March 3, 1887, relating to the adjustment of railroad grants and protection of bona fide purchasers, provides as follows:

"That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of this act." * * * * (24 Stats. 556.)

That provision of the act of 1887 is conclusive against the contention of the defendants.

(*b*) The mortgages or deeds of trust above mentioned, do not cover or embrace the lands in suit herein.

The descriptions in both mortgages are similar, and referring now to the description of the property mortgaged or conveyed by the deed of trust to the Central Trust Company, we find that the mortgage describes the lands as follows: "Also all and singular the several sections of land so as aforesaid granted by said acts of congress (acts of July 27, 1866, and March 3, 1871), and also all the estate, right, title, interest, claim and demand whatsoever at law or in equity of, in or to the same." * * * *

This instrument does not describe any tract of land, and purports only to embrace *those lands granted to the Southern Pacific Railroad Company by said acts of congress* and as the lands in suit here were excepted from the grant to the Southern Pacific Railroad Company, it necessarily follows that they are not, and cannot be embraced by the mortgage.

(*c*) In all of the former litigations between the United States and the Southern Pacific Railroad Company, and trustees under its mortgages, this court has uniformly held

that lands excepted from the Southern Pacific grant were not held by such trustees as bona fide purchasers.

United States v. Southern Pacific Railroad Co., 146 U. S. 570, 615, 619;

Southern Pacific Railroad Co. v. United States, 168 U S., 1, 66;

Southern Pacific Railroad Co. v. United States, 183 U. S. 519.

FOURTH.

Defendant Colorado River Irrigation Company is not a *bona fide* purchaser of and has no interest in any lands embraced by this appeal. The contract of sale by the Southern Pacific to that company is void as against public policy, being to procure enactment of a law by Congress to grant said lands to said defendants.

The joint and several answer of defendants Southern Pacific Railroad Company and Colorado River Irrigation Company [Record 268, 288] alleges that on December 8, 1893, the Colorado River Irrigation Company purchased in good faith for value, and without notice, from the Southern Pacific Railroad Company all of the lands described in the bill of complaint, bounded on the south by Mexico, on the north by the railroad station at Indio, and on the east and west by the east and west branches of the canals of said irrigation company, [Record 288].

The contract of December 8, 1893, and the accompanying map are in the record at pages 858, 870, and the map accompanying said contract as a part thereof, shows that the lands embraced by said contract comprise about 550,000

acres, and that about one-half of them, or about 275,000 acres, are situate south of the third standard parallel south, which parallel is substantially upon and along the northerly twenty-mile limits of the lands embraced in the map of the Texas Pacific Railroad of 1871, and withdrawn for that company.

So that upwards of 250,000 acres of the lands embraced by this appeal are covered by the contract of the Southern Pacific to the Irrigation Company and are claimed by the latter company.

The Irrigation Company never paid any money or other thing of value to the Southern Pacific for these lands or upon this contract, [Record 2167, 2175], but Mr. Hart, the attorney for the Irrigation Company, testifies that that company expended about $167,000 in procuring head works, rights of way and canal construction, to irrigate in part the lands embraced by said contract with the Southern Pacific and in part lands owned by the Irrigation Company in Mexico.

The map accompanying the contract [Record 870] shows that the Irrigation Company owned a larger body of land in Mexico than in California.

We feel entirely justified, from the record in this case, in saying that the contract from the Southern Pacific to the Colorado River Irrigation Company, is not only purely speculative and not in good faith, within the decision of this court, in United States v. Southern Pacific Railroad Company, 184 U. S., 49, 60, but further, that this contract is totally void as against public policy, it having been made for the purpose of procuring the passage of an act of Congress by the Irrigation Company, confirming or granting to the Railroad Company or the Irrigation Company, the title to all of the lands embraced by said contract, lying

south of the third standard parallel south and being those embraced by this appeal.

The expenditures claimed to have been made by the Irrigation Company, are equally for the benefit of the lands in California, or in Mexico, but if used only on California lands, it does not appear that the value of the canal would be lessened whether the Irrigation Company acquired title to lands under the contract with the Southern Pacific Railroad, or under other general laws of the United States, or sold the water to others as owners of lands, and in point of fact, the records of the Interior Department show that a large part of the lands embraced by this contract have been entered under various laws of the United States, other than the Southern Pacific grant of 1871, both prior and subsequent to the commencement of this suit.

None of the lands embraced by this appeal, as before stated, have been patented by the United States to the Southern Pacific Railroad Company, and the Circuit Court adjudged by its decree that the United States was the owner by title in fee simple, of all of these lands, [Record 774, 775], and this decree was affirmed by the Circuit Court of Appeals, but both courts below decided as appears from the opinions that the Colorado River Irrigation Company was a bona fide purchaser from the Southern Pacific Railroad Company of all patented lands [Record 841, 2468].

Both courts below by the decrees entered, *adjudged in effect*, as to the lands embraced in this appeal, and covered by the first paragraph of the decree [Record 775] that they had not been sold by the Southern Pacific Railroad Company in good faith to the Colorado River Irrigation Company.

The Colorado River Irrigation Company is now before the court upon this appeal claiming to be the owner of upwards of 250,000 acres of lands embraced by this appeal under its

contract of December 8, 1893, which we think is purely speculative and void upon its face, as being against public policy.

Nothing has been paid by the Irrigation Company to the Southern Pacific and no consideration has moved from one to the other. The entire purchase price with the accumulated interest thereon remains due and unpaid.

The contract concedes that the title to the lands was not in the Southern Pacific Railroad Company, and that a grant from the United States was necessary to make the title good.

Secretary Lamar had decided years before (4 L. D. 215) that these lands were excepted from the grant to the Southern Pacific and that decision had been uniformly followed.

The contract was purely a speculative one to cover a vast amount of lands which it was hoped to acquire either under the adjustment act of March 3, 1887, or under some future legislation.

In United States v. Southern Pacific Railroad Co., 184 U. S. 49, 60, the court said:

"Now while the statute (Act of March 3, 1887), is, as we have stated, remedial and to be liberally construed in order to carry out the purpose of its enactment, yet to sustain this purchase as one made in good faith would ignore the plainest provisions of law in respect to *bona fide* purchasers and would uphold almost any kind of speculative purchase." * * *

"It seems to us that the testimony plainly discloses a purely speculative transaction. Graves paid nothing. His agreement was, as he says, to protect the company in its title, or rather in its purchase money, and then he would make what he could over and above that. He was not buying with the purpose of owning the land, but was simply engaged in an effort to secure to the original purchaser from the railroad company the money which it had invested in its purchase, advancing, it is true, in that effort, some money in the way of

taxes and devoting his legal services to that end, and hoping to make a profitable speculation out of the matter."

We therefore submit with confidence that the Colorado River Irrigation Company cannot be deemed to be a bona fide purchaser of any of these lands within the meaning of the act of 1887.

(2) The contract between the Southern Pacific and the Irrigation Company is void as being against public policy.

The contract between the Southern Pacific Company and the Irrigation Company, by virtue of which the defendants here claim that the Irrigation Company is the owner of the lands embraced thereby, provides that the Southern Pacific Railroad Company, party of the first part, agrees to sell to the Colorado River Irrigation Company party of the second part, the tract of land above described, which amounts to about 550,000 acres at the price of $2.50 per acre [Record 859] and further provides that the party of the second part, the Colorado River Irrigation Company, agrees to buy the said lands and to pay therefor the sum of $2.50 per acre [Record 860], with interest thereon at six per cent per annum [Record 861], and by article four of said contract [Record 862] it is provided as follows:

"It is hereby agreed that if the United States' patents to the party of the first part (Southern Pacific Rd. Co.) shall not have been issued within ten (10) years from the date hereof for any of said lands lying south of the third parallel south, above described, and the party of the second part shall be enabled to secure said patents by reason of this contract, or if it should secure title by reason of any legislation applying to lands sold by railroad companies under the acts of Congress now existing, or that may be passed hereafter in relation thereto, then and in that event the party of the second part may deduct from the purchase price for said lands last above described the amount by it paid to the general government

for any of said lands, not exceeding one and twenty-five hundredths dollars ($1.25) per acre; *provided, however, that if the party of the second part shall obtain title to said lands in bulk by legislation existing, or that may hereafter be passed, then and in that event the party of the second part shall pay to the party of the first part the sum of one and twenty-five hundredths dollars* ($1.25) *per acre, irrespective of the amount paid to the general government.*"

Under this contract, if the Southern Pacific Company secures patents for the lands within ten years, under its grant, without the assistance of the Irrigation Company, and without that company securing any additional legislation, the price to be paid for the lands estimated at 550,000 acres at $2.50 per acre, amounts to $1,375,000.

About one-half of the lands contracted to be sold lie south of the third standard parallel south, and in case the Irrigation Company "*shall obtain title to said lands in bulk, by legislation, existing, or that may hereafter be passed, then and in that event the party of the second part shall pay to the party of the first part the sum of* $1.25 *per acre, irrespective of the amount paid to the general government,*" so that the deduction in the purchase price or the amount allowed by the railroad company to the Colorado River Irrigation Company, for securing such legislation, is to be, as estimated, $343,750.00.

The principle is well settled that the courts will not directly or indirectly lend their aid in the enforcement of, nor will they permit a recovery upon any contract, which is illegal or contrary to sound morals or public policy, and it is uniformly held that contracts to improperly influence legislation, or the acts of other public officers, are contrary to public policy and void.

In the present case the Irrigation Company is not an attorney, advocate or counsel. The title to the lands was in the

United States, and it was proposed and contemplated by the contract that the Irrigation Company should secure the passage of an act of Congress confirming title to the lands *in bulk*.

In Marshall v. Baltimore Railroad Company, 16 How., 314, 334, 335, it appears that Alexander Marshall brought an action to recover $50,000 for services upon a contract providing in part as follows: "That the right of Mr. Marshall to the compensation under the existing contract shall attach upon the passage of a law at the present session of the legislature, giving the right of way to Parkersburg, or to Fishing Creek, either to the Baltimore and Ohio Railroad Company, or to an independent company."

It further appeared from correspondence introduced in evidence, that Marshall was not to perform these services as an attorney or counsel in any proper manner by way of argument before a committee or otherwise, but that the services to be performed were in the nature of lobbying, and the court said:

"Legislators should act from high considerations of public duty. Public policy and sound morality do therefore imperatively require that courts should put the stamp of their disapprobation on every act, and pronounce void every contract the ultimate or probable tendency of which would be to sully the purity or mislead the judgments of those to whom the high trust of legislation is confided." * * *

"Legislators should act with a single eye to the true interest of the whole people, and courts of justice can give no countenance to the use of means which may subject them to be misled by the pertinacious importunity and indirect influences of interested and unscrupulous agents or solicitors."

"Influences secretly urged under false and covert pretenses must necessarily operate deleteriously on legislative action, whether it be employed to obtain the passage of private or public acts."

In Tool Company v. Norris, 2 Wall. 45, 54, 55, the court said:

"The question, then, is this: Can an agreement for compensation to procure a contract from the Government to furnish its supplies be enforced by the courts? We have no hesitation in answering the question in the negative."

* * * * * * * * * *

"The principle which determines the invalidity of the agreement in question has been asserted in a great variety of cases. It has been asserted in cases relating to agreements for compensation to procure legislation. These have been uniformly declared invalid, and the decisions have not turned upon the question, whether improper influences were contemplated or used, but upon the corrupting tendency of the agreements. Legislation should be prompted solely from considerations of the public good, and the best means of advancing it. Whatever tends to divert the attention of legislators from their high duties, to mislead their judgments, or to substitute other motives for their conduct than the advancement of the public interests, must necessarily and directly tend to impair the integrity of our political institutions. Agreements for compensation contingent upon success, suggest the use of sinister and corrupt means for the accomplishment of the end desired. The law meets the suggestion of evil, and strikes down the contract from its inception."

In Oscanyan v. Arms Co., 103 U. S. 261, at pp. 271, 277, the court said:

"The plaintiff claims that these contracts were procured through the recommendations which by his influence were made by Rustem Bey. His counsel stated this in his opening, and declared that no other person had possessed any influence in effecting the sales. It is for the use of this influence that the contract in suit was made and compensation is now demanded. The question then arises, Is this contract one which the court will enforce? We have no hesitation in answering it in the negative. The contract was a corrupt one,—

corrupt in its origin and corrupting in its tendencies. The services stipulated and rendered were prohibited by considerations of morality and policy which should prevail at all times and in all countries, and without which fidelity to public trusts would be a matter of bargain and sale, and not of duty.

"In the first place, the plaintiff was, at the time, an officer of the Turkish government. As its consul-general at the port of New York, he was invested with important functions and entitled to many privileges by the law of nations." * * *

"In any view of the contract here, whether it would be valid or invalid according to Turkish law and customs, it is intrinsically so vicious in its character and tendency, and so repugnant to all our notions of right and morality, that it can have no countenance in the courts of the United States."

McMullen v. Hoffman, 174 U. S., 639, 654, 656, 658, was a suit which arose upon a contract having its inception in an illegal and immoral agreement to procure a public contract by suppressing competition, and the court said:

"The authorities from the earliest time to the present unanimously hold that no court will lend its assistance in any way towards carrying out the terms of an illegal contract. In case any action is brought in which it is necessary to prove the illegal contract in order to maintain the action, courts will not enforce it, nor will they enforce any alleged rights directly springing from such contract. In cases of this kind the maxim is *Potior est condito defendentis.*" * * * *

"Upon the point as to the ability of the plaintiff to make out his cause of action without referring to the illegal contract, it may be stated that the plaintiff for such purpose cannot refer to one portion only of the contract upon which he proposes to found his right of action, but that the whole of the contract must come in, although the portion upon which he founds his cause of action may be legal." * * *

"'Whenever the illegality appears, whether the evidence comes from one side or the other, the disclosure is fatal to the case. No consent of the defendant can neutralize its effect. A stipulation in the most solemn form to waive the ob-

jection would be tainted with the vice of the original contract, and void for the same reasons. Wherever the contamination reaches it destroys. The principle to be extracted from all the cases is, that the law will not lend its support to a claim founded upon its violation'."

Upon the well settled principles stated in the foregoing cases in this court, and the numerous other cases therein cited, we submit that the contract between the Southern Pacific Railroad Company and the Colorado River Irrigation Company, under which the latter company claims title to half of the lands embraced in this appeal, asserting under such contract its ownership to a quarter million acres of land, is against public policy and absolutely void, and that the Irrigation Company cannot maintain its title under that contract to any of the lands embraced in this appeal, either under the grant by Congress of March 3, 1871, to the Southern Pacific Railroad Company, or under the act of March 3, 1887, protecting the rights of *bona fide* purchasers.

In conclusion it is submitted that the decrees of the courts below as to the lands embraced by this appeal, should be affirmed.

JOSEPH H. CALL,
Special United States Attorney.

APPENDIX.

ACTS OF CONGRESS.

ATLANTIC AND PACIFIC GRANT.

July 27, 1866, (14 Stat. 292).

AN ACT Granting lands to aid in the construction of a railroad and telegraph line from the states of Missouri and Arkansas to the Pacific Coast.

Section 1 incorporated the Atlantic and Pacific Railroad Company and provided for the construction and location of a line of railroad, as follows:

"Beginning at or near the town of Springfield, in the state of Missouri, thence to the western boundary line of said state and thence by the most eligible railroad route as shall be determined by said company, to a point on the Canadian river; thence to the town of Albuquerque on the river Del Norte, and thence by way of Aqua Frio, or other suitable pass, to the headwaters of the Colorado Chiquito and thence along the thirty-fifth parallel of latitude as near as may be found most suitable for a railway route to the Colorado river, at such point as may be selected by said company for crossing; thence by the most practicable and eligible route to the Pacific."

Section 2 grants a right of way, etc.

"Sec. 3. *And be it further enacted:* That there be, and hereby is, granted to the Atlantic and Pacific Railroad Company, its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway and its branches, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile on each side of said railroad line, as said company may adopt, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad whenever it passes through any state; and whenever, on the line thereof, the United States have full title, not reserved, sold, granted or otherwise appropriated, and free from pre-

emption or other claims or rights, at the time the line of said road is designated by the plat thereof, filed in the office of the Commissioner of the General Land office, and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by homestead settlers, or pre-empted or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers; *Provided*, That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act; *Provided, further*, That the railroad company receiving the previous grant of land may assign their interest to said 'Atlantic and Pacific Railroad Company,' or may consolidate, confederate, and associate with said company upon the terms named in the first and seventeenth sections of this act; *Provided, further*, That all mineral lands be, and the same are hereby, excluded from the operations of this act; and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections nearest to the line of said road, and within twenty miles thereof, may be selected as above provided; *And provided further*, That the word 'mineral,' when it occurs in this act, shall not be held to include iron or coal; *And provided further*, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said 'Atlantic and Pacific Railroad.'

"Sec. 18. *And be it further enacted*, That the Southern Pacific Railroad, a company incorporated under the laws of the state of California, is hereby authorized to connect with the said Atlantic and Pacific Railroad, formed under this act, at such point near the boundary line of the State of California, as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight

or fare with said road, and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided; and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific Railroad herein provided for."

Texas Pacific Railroad Act.

March 3, 1871, *Vol.* 16, *p.* 573.

AN ACT to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes.

"Be it enacted, etc., That John C. Fremont,.....
....
and all such persons as shall or may be associated with them, and their successors, are hereby created a body politic and corporate in fact and in law, by the name, style, and title of the Texas Pacific Railroad Company, and by that name shall have perpetual succession, and shall be able to sue and be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and use a common seal; and the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, from a point at or near Marshall, county of Harrison, state of Texas; thence by the most direct and eligible route, to be determined by said company, near the thirty-second parallel of north latitude, to a point at or near El Paso; thence by the most direct and eligible route, to be selected by said company, through New Mexico and Arizona, to a point on the Rio Colorado, at or near the southeastern boundary of the state of California; thence by the most direct and eligible route to San Diego, California, to ship's channel, in the bay of San Diego, in the state of California, pursuing in the location thereof, as near as may be, the thirty-second parallel of north latitude, and is hereby

vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act."

"Sec. 9. That for the purpose of aiding in the construction of the railroad and telegraph line herein provided for, there is hereby granted to the said Texas Pacific Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as such line may be adopted by said company, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad in California, where the same shall *not have* been sold, reserved, or otherwise disposed of by the United States, and to which a pre-emption or homestead claim may not have attached at the time the line of said road is definitely fixed. In case any of said lands shall have been sold, reserved, occupied, or pre-empted, or otherwise disposed of, other lands shall be selected in lieu thereof by said company, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections first above named; and not including the reserved numbers. If, in the too near approach of the said railroad line to the boundary of Mexico, the number of sections of land to which the company is entitled cannot be selected immediately on the line of said railroad, or in lieu of mineral lands excluded from this grant, a like quantity of unoccupied and unappropriated agricultural lands, in odd numbered sections nearest the line of said railroad may be selected as above provided; and the word 'mineral,' where it occurs in this act, shall not be held to include iron or coal. *Provided, however*, that no public lands are hereby granted within the state of California further than twenty miles on each side of said road, except to make up deficiencies as aforesaid, and then not to exceed twenty miles from the lands originally granted. The term 'ship channel,' as used in this bill, shall not be construed as conveying any greater right to said company to the water front of San Diego Bay than it may acquire by gift, grant, purchase or otherwise,

except the right of way, as herein granted. *And provided further,* that all such lands, so granted by this section to said company, which shall not be sold or otherwise disposed of, as provided in this act, within three years after the completion of the entire road, shall be subject to settlement and pre-emption like other lands, at a price to be fixed by and paid to said company, not exceeding an average of two dollars and fifty cents per acre for all the lands herein granted."

"Sec. 12. That whenever the said company shall complete the first and each succeeding section of twenty consecutive miles of said railroad and put it in running order as a first class road in all its appointments, it shall be the duty of the Secretary of the Interior to cause patents to be issued conveying to said company the number of sections of land opposite to and coterminous with said completed road to which it shall be entitled for each section so completed. Said company, within two years after the passage of this act, shall designate the general route of its said road, as near as may be, and shall file a map of the same in the Department of the Interior; and when the map is so filed, the Secretary of the Interior, immediately thereafter, shall cause the lands within forty miles on each side of said designated route within the Territories, and twenty miles within the State of California, to be withdrawn from pre-emption, private entry, and sale; *Provided, however,* That the provisions of the act of September, eighteen hundred and forty-one, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, and the amendments thereto, shall be, and the same are hereby, extended to all other lands of the United States on the line of said road when surveyed, except those hereby granted to said company.

"Sec. 13. That the president of the company shall annually, by the first day of July, make a report and file it with the Secretary of the Interior, which report shall be under oath, exhibiting the financial situation of the company, the amount of money received and expended, and the number of miles

of road constructed each year; and further; the names and residences of the stockholders, of the directors, and of all other officers of the company, the amount of stock subscribed, and the amount thereof actually paid in, a description of the lines of road surveyed and fixed upon for construction, the amount received from passengers and for freight, respectively, on the road, a statement of the expenses of said road and its fixtures, and a true statement of the indebtedness of said company and the various kinds thereof."

"Sec. 23. That for the purpose of connecting the Texas Pacific Railroad with the city of San Francisco the Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company, of California, by the act of July twenty-seven, eighteen hundred and sixty-six; *Provided, however,* that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company."

Amendment to Texas Pacific Act Approved May 2, 1872.

"An Act supplementary to an Act entitled 'An Act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes,' approved March third, eighteen hundred and seventy-one.

"*Be it enacted, etc.,* That the name, style and title of the Texas Pacific Railroad Company shall hereafter be 'The Texas and Pacific Railway Company;' and the said The Texas and Pacific Railway Company shall have, possess, and enjoy all the rights, privileges, and franchises heretofore conferred upon the said Texas Pacific Railroad Company."

Texas Pacific Forfeiture Act Feb'y 28, 1885.

"An Act to declare a forfeiture of lands granted to the Texas Pacific Railroad Company, and for other purposes.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all lands granted to the Texas Pacific Railroad Company under the act of Congress entitled 'An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes,' approved March third, eighteen hundred and seventy-one, and acts amendatory thereto, be and they are hereby declared forfeited, and the whole of said lands restored to the public domain and made subject to disposal under the general laws of the United States, as though said grant had never been made; *Provided*, that the price of lands so forfeited and restored shall be the same as heretofore fixed for the even sections within said grant.

"Sec. 2. That the act of March third, eighteen hundred and seventy-five, entitled 'An act for the relief of settlers within railroad limits,' is hereby repealed.

"Approved, February 28, 1885."

Table of Dates and References to Record.

March 3, 1871...Congressional grant to Texas Pacific Railroad Company; afterwards changed to the Texas and Pacific Railway Company, from Marshall, Texas, via El Paso, crossing the Colorado river at the southeast corner of California; thence to ship's channel in the Bay of San Diego, Cal., which grant in California was the odd sections for twenty miles on each side of the road as granted lands, and with right to indemnity within a limit of thirty miles, but in case of the too near approach to the boundary of Mexico lands could not be selected immediately on the line of the road, then within a further

limit of forty miles from the line of road. (See appendix).

March 3, 1871... Section 23 of the above act authorized the Southern Pacific Railroad Company to construct a railroad from Tehachapi pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river, with the same rights, grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to said Southern Pacific Railroad Company by the act of July 27, 1866, but expressly providing that "this section shall in no way affect or impair the rights, present or prospective, * * * of any other railroad company." (See appendix).

April 3, 1871.... Southern Pacific Company filed map of *general route* from Tehachapi pass, via Los Angeles, to Colorado river at Fort Yuma (record 1360, 1363).

August 15, 1871. Texas Pacific Railroad filed in Interior Department map of general route from El Paso, Texas, to ship's channel, San Diego (Record 1545, 1546, 1548), by the direct route.

Sept. 27, 1871.... Interior Department withdrew and reserved the odd sections within 20 miles of Texas Pacific route between the Colorado river and Bay of San Diego (record 1539, 1540, 1542), and the withdrawal map as filed in the U. S. Land Office of Los Angeles, Cal., on Oct. 15, 1871 (record 1542).

May, 1874.....The Texas Pacific Railroad Company, surveyed, located and adopted for construction the line of railroad from the Colorado river via San Gorgonio pass to San Diego (report of Chief Engineer Dodge, record 1891, 1900, 1903, 1909; also map showing this line on file in the office of the company record 2055, 2073, 2074; also map showing said line with 20, 30 and 40-mile limits thereof, drafted for complainants by Samuel G. Bennett, and prepared from maps of the company and official reports—record 2093, 2098).

July 1, 1874.....Texas Pacific Railroad Company reports, under oath, to Interior Department description of the lines of route surveyed and fixed upon for construction, including a particular description of the line of route between Forth Worth, Texas, and San Diego (record 1761, 1766, 1770).

June 30, 1876....Map of Texas Pacific Railway filed in the Interior Department with the annual report of that company, showing the main line of road from a point in Texas, via Fort Yuma on the Colorado river; thence to San Diego via the San Gorgonio pass (record 1772, 1774).

Jan. 17, 1878....Southern Pacific Railroad Company files in Interior Department, with the report of commissioners appointed to examine the constructed railroad, its map of definite location from San Bernardino to the Colorado river at Fort Yuma (record 1422, 1423, 1440; also answer of Southern Pacific, record 280). In the stipulation of counsel regarding the printing of the record, it is stipulated that this map of the "5th section of

the Southern Pacific Railroad *as located* and constructed, filed with the Secretary of the Interior, with the commissioners' report upon said section on January 17, 1878," shall not be printed unless required, but shall accompany the record as an original document (record 2431, 2432).

Feb. 28, 1885....Act of Congress forfeiting the lands granted to the Texas Pacific Railroad Company and restoring the same to the public domain.

Nov. 2, 1885....Decision of Lamar, Secretary of the Interior, supported by opinion of Assistant Attorney General, adjudging that lands reserved for Texas Pacific Railroad were excepted from grant to Southern Pacific Railroad (record 1549, 1559).

In the Supreme Court of the United States.

OCTOBER TERM, 1902.

SOUTHERN PACIFIC RAILROAD COMPANY et al., appellants,
v.
THE UNITED STATES, appellee.
No. 190.

APPEAL FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

APPENDIX TO BRIEF FOR UNITED STATES.

CONTAINING AN ABSTRACT OF THE DECISIONS OF THE INTERIOR DEPARTMENT, THE SUPREME COURT, AND UNITED STATES CIRCUIT COURT OF APPEALS, CONSTRUING THE PROVISO OF SECTION 23 OF THE ACT OF CONGRESS OF MARCH 3, 1871, HOLDING THAT LANDS SET APART AND RESERVED FOR EITHER THE TEXAS PACIFIC RAILROAD OR ATLANTIC AND PACIFIC RAILROAD WERE LANDS TO WHICH SUCH COMPANY HAD A *PRESENT* OR *PROSPECTIVE RIGHT* AND CAN NOT BE TAKEN BY THE SOUTHERN PACIFIC COMPANY UNDER ITS GRANT OF MARCH 3, 1871.

Case of Texas Pacific Railroad and Southern Pacific Railroad (4 L. D., 215, 217, 218, 220).

OPINION.

Assistant Attorney-General Montgomery to Secretary Lamar.

[November 2, 1885.]

[Extracts from opinions.]

"At the time the Southern Pacific Company was seeking to procure the grant provided for in section 23

of said act [of March 3, 1871], the possibility of a forfeiture of its grant by the Texas Pacific was well known to said Southern Pacific Company. Hence, according to the above rule of construction, if said section 23 of said act is so worded as to leave it uncertain whether the lands now in question passed to the Southern Pacific, or whether in the event of a forfeiture by the Texas Pacific—just such as has taken place—it was intended that said lands should revert to the Government, all such uncertainty must be resolved in favor of the Government.

"It will be observed that the first and chief object of the above-named act (of March 3, 1871) was to secure the building of a railroad from Marshall, Texas, to the Bay of San Diego, California; and secondly, to connect said railroad, when built, with the city of San Francisco. And it appears, from appellant's own showing, that, although a map of general route of said Texas Pacific Railroad was filed in the General Land Office, yet not a mile of said road was ever built, nor was its line of definite location ever established. So that not only was it impossible for the Southern Pacific road to establish a connection between said road and the city of San Francisco (the very thing which the Southern Pacific Company was required to do, as the condition and in consideration of its grant), but it was impossible for the said last-named company, in the absence of a definite location of the line of said Texas Pacific road, either to connect therewith or to know at what point such connection could even prospectively be made."

* * * * *

"In view of the fact that, without any fault of the Government, it became impossible for the Southern Pacific to establish a railroad connection between the

city of San Francisco and said Texas Pacific road 'at or near the Colorado River,' the accomplishment of which work, as suggested above, constituted the very condition upon which its right to a grant was seemingly made to depend, it might be a serious question whether or not, in the absence of Congressional relief, said Southern Pacific Company is in a position to demand an acre of the land originally intended to be granted. According to the general doctrine pervading the law of dependent contracts, an impossibility to perform the conditions of such a contract will not excuse nonperformance when such impossibility is occasioned either by the act of God or a stranger. (See 2 Chitty on Contracts, 9th English edition, p. 1086.)"

"As we have seen, the closing words of said section 23 of the act above quoted—the section under which the Southern Pacific Company claims the lands in question—are as follows:

"'*Provided, however, That this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Company, or any other railroad company.*'

"Now, in view of the fact that this same act, in its preceding sections, had already declared that the 'Texas Pacific' was thereby constituted an incorporated railroad company, and was granted certain lands, including *all* the odd-numbered sections now in dispute, it is difficult to see how it would have been possible more clearly to except said lands from the operation of said grant to the Southern Pacific, than by providing that the latter grant should not 'affect or impair the rights, present or prospective, of any other railroad company.'"

DECISION.

Secretary Lamar to Commissioner Sparks, November 2, 1885.

"In the matter of the appeal of the Southern Pacific Railroad Company from your office decision of April 4, 1885, directing the local officers at Los Angeles, California, to be governed by instructions of March 17, 1885, directing them to give notice of the restoration of all lands theretofore withdrawn for the Texas and Pacific Railway, and revoking your office letter of March 18, 1885, excluding from such restoration lands along the branch line of the Southern Pacific Railroad, where the same passes through lands withdrawn from said Texas and Pacific Railway, I have carefully considered the points presented by said appeal, and, for the reasons set forth in the foregoing opinion, the said decision appealed from is hereby affirmed."

Gordon v. *Southern Pacific Railroad Company* (5 L. D., 691, 693).

Acting Secretary Muldrow to Commissioner Sparks, June 7, 1887.

"In the case of the *Texas Pacific Railroad Company and Southern Pacific* (branch line) *Railroad Company* (4 L. D., 215), this Department had occasion to consider the effect of the proviso above quoted from section 23 of the act of 1871.

"In the opinion of the Assistant Attorney-General in that case, which opinion was adopted by the Department, the following language was used relative to said proviso:

"'It is difficult to see how it would have been possible more clearly to except said lands from the operation of said grant to the Southern Pacific than by providing that the latter grant should not affect or

impair the right, present or prospective, of the Atlantic and Pacific Company or any other railroad company.'"

"What was there said is fully applicable to the branch of this case now under consideration, and to the tract in question. The SE. ¼ of SW. ¼ of sec. 23, if not within the exterior boundaries of the Azusa rancho, was embraced within the indemnity withdrawal for the Atlantic and Pacific Company, and gave to that company a prospective right which excepted the tract from the Southern Pacific grant."

Coble v. *Southern Pacific Railroad Company* (6 L. D., 679, 680).

Acting Secretary Muldrow to Acting Commissioner Stockslager, January 11, 1888.

"But the records of your office show that said tract is also within the 30 miles, or indemnity limits, of the grant of July 27, 1866 (14 Stat., 292), to the Atlantic and Pacific Railroad Company as ascertained by the map of designated route filed March 12, 1872, on which withdrawal was ordered April 22, 1872.

"By the twenty-third section of the act of March 3, 1871, *supra*, making the grant to the branch line of the Southern Pacific Company, it was provided: 'That this section shall in no way affect or impair the right, present or prospective, of the Atlantic and Pacific Company, or any other railroad company.'

"In the case of *Gordon* v. *Southern Pacific Railroad Company* (5 L. D., 691) it was held that, under this proviso, land 'embraced within the indemnity withdrawal for the Atlantic and Pacific Company * * * gave to that company a prospective right, which excepted the tract from the Southern Pacific grant.'

"Under this decision it is apparent that the tract in

question did not pass under the grant to the Southern Pacific Company, but was excepted therefrom because of the grant to the Atlantic and Pacific Company."

Coble v. *Southern Pacific Railroad Company* (6 L. D., 812, 813, 814, 815).

(On review.)

Secretary Vilas to Commissioner Stockslager, June 23, 1888.

"Counsel argue this motion as if it was a question between the roads as to when their respective rights attached under their grants, but in the case now under review the decision of the Department was based upon the ground that the Atlantic and Pacific Company, having the right to locate and construct its line along the route, they therefore had a prospective right to select lands that fell within the limits of the road as afterwards located, and hence the Southern Pacific Railroad Company had no right to the same, because the lands of the character of the tract in controversy were excepted from the operation of the grant to the Southern Pacific Company (branch line), by the proviso above referred to, and hence the forfeiture of the grant to the Atlantic and Pacific Company did not invest the Southern Pacific Company with the right to lands that were excepted from the operation of their grant, following the decision of the Department in the case of *Gordon* v. *Southern Pacific Company* (5 L. D., 691).

"In the *Gordon case* it was held, upon the authority of the Assistant Attorney-General in the case of the *Texas Pacific Railroad Company and Southern Pacific* (branch line) *Railroad Company* (4 L. D., 215), that:

"'Under section 23 of the grant of March 3, 1871, lands embraced within the indemnity withdrawal for

the Atlantic and Pacific were *excepted* from the grant to the Southern Pacific Railroad Company.'

"In that case the lands in controversy were within the granted limits of the Southern Pacific Railroad Company, as shown by the map designating the route of said road filed April 3, 1871, and within the indemnity limits of the Atlantic and Pacific Railroad Company as shown by the map of said road filed March 12, 1872, and hence they were in precisely the same condition, so far as they were affected by the grants to said roads as the lands involved in this case.

"On March 2, 1888, this Department submitted to the Attorney-General, for his opinion thereon, the following question:

"'Whether the proviso to the twenty-third section of the act of the 3d of March, 1871 (16 Stat., 573), excepted from the operation of said grant lands within the primary limits of said road, where said lands fall also within the primary or indemnity limits of the Atlantic and Pacific Railroad Company now forfeited, and whether said lands can be restored to settlement and entry under the general land laws?'

"The opinion of the Attorney-General has been filed in the Department, in which he holds that:

"'This section constitutes the grant of all the rights the Southern Pacific Railroad Company has to public lands for the branch line described in it. No subsequent legislation has either added to or diminished the rights of that company. Whatever rights the company had along the main line of its road under the act of July 27, 1866, are extended to this branch line, subject to the same limitations, restrictions, and conditions that are attached to it in the original grant, with the additional exception stated in the proviso. By that

proviso all rights and privileges that would in 'any way affect or impair the rights, present or prospective,' of the Atlantic and Pacific Railroad Company are excepted by the enactment from the grant to the Southern Pacific Company, and as to any such right or privilege thus excepted, no claim of any kind was ever vested in the Southern Pacific Company. The rights that were granted to the Atlantic and Pacific Railroad Company in their full breadth, as set forth in the act of July 27, 1866, are excepted by the proviso. The exception includes all the rights, both present and prospective, of the Atlantic and Pacific Company. The rights excepted are those which on the 3d of March, 1871, *existed*, and those which the legislation as it then stood *promised* to the Atlantic and Pacific Company.'

"Without stopping to consider the question as to whether or not this construction given to the said twenty-third section of the act of March 3, 1871, by my predecessor and the Attorney-General is the correct one, and because the determination is open to judicial review, I believe that the ends of justice can be best subserved by leaving said company to seek in the courts its remedy for any possible injury it may have sustained in the premises. I therefore decline to disturb the former ruling of the Department, and the motion for review is accordingly denied."

Southern Pacific Railroad Co. v. *Moore* (11 L. D., 534).

Secretary Noble to the Commissioner of the General Land Office, November 29, 1890.

"The land selected is within the indemnity limits of the grant of March 3, 1871 (16 Stats., 579), to the branch line of the Southern Pacific Railroad Company, as shown by its map of designated route filed April 3,

1871, and also within the primary limits of the grant of July 27, 1866 (14 Stats., 292), to the Atlantic and Pacific Railroad Company, as shown by its map of designated route filed March 12, 1872.

"This Department, in construing this section, has repeatedly held that lands within the grant to the Atlantic and Pacific Company do not pass under the grant to the Southern Pacific Company, but are excepted therefrom. *Gordon* v. *Southern Pacific Railroad Company* (5 L. D., 691); and *Coble* v. *Southern Pacific Railroad Company* (6 L. D., 679), which on review was adhered to (6 L. D., 812).

"The act of July 6, 1886 (24 Stat., 123), forfeits and restores to the public domain certain lands within the primary and indemnity limits of the Atlantic and Pacific Company, adjacent to and coterminous with the uncompleted portions of its road. The land in contest is part of the land forfeited under this act, but the forfeiture confers no right upon the Southern Pacific Railroad Company to make selection of land never embraced in its grant."

Moore v. *Kellogg* (17 L. D., 391, 393).

First Assistant Secretary Sims to the Commissioner of the General Land Office, October 5, 1893.

"But this land was within the primary limits of the grant to the Atlantic and Pacific Railroad Company under the act of July 27, 1866 (14 Stat., 292), as shown by its map of definite route, filed March 12, 1872, and for this reason was not subject to selection as indemnity land for the Southern Pacific Railroad Company under its grant made by act of Congress of March 3, 1871 (16 Stat., 579).

"In the case of the *United States* v. *Southern Pacific*

Railroad Company (146 U. S., 570), the Supreme Court, speaking through Justice Brewer, says:

"'Our conclusions, therefore, are that a valid and sufficient map of definite location of its route from the Colorado River to the Pacific Ocean was filed by the Atlantic and Pacific Company, and approved by the Secretary of the Interior; that by such act the title to these lands passed, under the grant of 1866, to the Atlantic and Pacific Company, and remained held by it subject to a condition subsequent until the act of forfeiture of 1886; that by that act of forfeiture the title of the Atlantic and Pacific was retaken by the General Government, and retaken for its own benefit, and not that of the Southern Pacific Company; and that the latter company has no title of any kind to these lands.'

"It will thus be seen that the act forfeiting these lands of the Atlantic and Pacific Railroad Company did not give the Southern Pacific Company any rights to the land within the indemnity limits, but the land reverted to the Federal Government, and after the said act was passed became open to settlement; and as the record shows that Mattie Moore made her application to file upon said land now in issue, together with other land, on August 10, 1888, at which time the land was opened to settlement, it follows that she has the prior right to it.

"As the Southern Pacific Railroad Company has no legal rights in the land, Kellogg could acquire none by reason of his application to purchase from it."

Union Oil Co. v. *Southern Pacific Railroad* (26 L. D., 48).

Secretary Bliss to Commissioner of the General Land Office, January 18, 1898.

"November 22, 1897, the Department, on the application of the Southern Pacific Railroad Company,

issued an order (25 L. D., 393), directing your office to suspend action upon that part of departmental decision of November 6, 1897, on review (25 L. D., 351), relating to the question of the right of the Southern Pacific Railroad Company to make indemnity selections within the forfeited primary limits of the Atlantic and Pacific grant. The purpose of this order of suspension was to withhold action upon that particular portion of said departmental decision of November 6, 1897, during the pendency, in the Supreme Court, of proceedings to obtain a rehearing and reconsideration of a prior decision therein, upon which the departmental decision now in question was based.

"Since the issuance of said order of suspension the Southern Pacific Railroad Company has presented to the Supreme Court its petition for rehearing in the case named, and that petition has been considered and denied, so that the decision of the court cited in the departmental decision has now become final. The said order of suspension of November 22, 1897, is hereby revoked, and the application of the Southern Pacific Railroad Company, which was therein treated as a motion for re-review, is hereby denied."

Southern Pacific Railroad (26 L. D., 697, 699).

Commissioner Hermann to register and receiver of Los Angeles, approved by Secretary Bliss, May 3, 1898.

"The Supreme Court of the United States has finally decided that the lands lying within the overlapping limits of the grant by act of Congress of March 3, 1871 (16 Stat., 573), to the Southern Pacific Railroad Company, branch line, and the forfeited portion of the grant by act of July 27, 1866 (14 Stat., 592), to the Atlantic and Pacific Railroad Company, are public

lands and that the Southern Pacific Railroad Company has no right therein under said grant of 1871 (*Southern Pacific Railroad Co. et al.* v. *United States*, 168 U. S., 1); and the Secretary of the Interior, by letters of January 18 and 28, 1898 (26 L. D., 48 and 97), has directed that the restoration to entry of the lands which had been directed to be restored by departmental letter of July 15, 1893, but was suspended by departmental letter of November 8, 1893, because of the pendency of the suit now decided, be proceeded with, certain lands being excepted.

"Therefore, in order to carry the restoration into effect, you will cause to be published for the period of thirty days, in some newspaper of general circulation in your district and in the vicinity of the lands, a notice that all lands lying within the overlapping limits of the Atlantic and Pacific Company's grant by act of July 27, 1866, and the Southern Pacific branch line grant by act of March 3, 1871, and not within the 20-mile primary limits of the grant by the former act to the Southern Pacific Company for its main line, heretofore reserved from entry for the Southern Pacific Company, are restored to the public domain, with the exceptions and additions to be noted further on, and will be subject to entry on a day to be fixed by the notice, which shall not be less than thirty days from the date of the first publication thereof.

"I transmit a diagram showing the limits of the said grants as they overlap the lands to be restored, and in explanation thereof will say that under the decision of the court the restoration will embrace all the public lands within the 30-mile limits of the forfeited Atlantic and Pacific grant to the extent it is overlapped by the Southern Pacific branch line grant (both 20 and 30

mile limits) outside the 20-mile primary limits of the Southern Pacific main line grant, and also the tracts above described within said latter limits as being involved in the suit recently decided, with the exceptions noted.

"The lands outside the primary limits of the Southern Pacific main line grant, and within the limits of its branch line grant, are of four classes, as follows: Lands within the common granted limits of the Atlantic and Pacific grant and the Southern Pacific grant of 1871; lands within the granted limits of said Southern Pacific grant and the indemnity limits of the Atlantic and Pacific grant; lands within the granted limits of the Atlantic and Pacific grant and within the indemnity limits of the Southern Pacific grant, and lands within the common indemnity limits of both grants. The San Gabriel Reservation is noted on the diagram and colored pink.

"All applications to select and all selections by the Southern Pacific Railroad Company on account of its branch line, of the lands to be restored, are rejected and canceled, respectively, and you will so note upon your records."

Smead v. *Southern Pacific R. R. Co.* (29 L. D., 135, 137).

Acting Secretary Ryan to Commissioner of General Land Office, August 25, 1899.

"On April 15, 1898 (26 L. D., 697), instructions were issued to the local officers at Los Angeles, Cal., relative to the proper manner of carrying into effect said order of restoration. With said instructions was transmitted a diagram showing the limits of the said grants as they overlap the lands to be restored, and in explanation thereof it was said that—

"'Under the decision of the court the restoration will embrace all the public lands within the 30-mile limits of the forfeited Atlantic and Pacific grant to the extent it is overlapped by the Southern Pacific branch-line grant (both 20 and 30 mile limits) outside the 20-mile primary limits of the Southern Pacific main-line grant, and also the tracts above described within the latter limits as being involved in the suit recently decided, with the exceptions noted.'

"The lands outside the primary limits of the Southern Pacific main line grant, and within the limits of its branch line grant, are of four classes, as follows: Lands within the common granted limits of the Atlantic and Pacific grant and the Southern Pacific grant of 1871; lands within the granted limits of said Southern Pacific grant and the indemnity limits of the Atlantic and Pacific grant; lands within the granted limits of the Atlantic and Pacific grant and within the indemnity limits of the Southern Pacific; and lands within the common indemnity limits of both grants. The San Gabriel Reservation is noted on the diagram and colored pink.

"All applications to select, and all selections by the Southern Pacific Railroad Company on account of its branch line, of the lands to be restored, are rejected and canceled, respectively, and you will so note upon your records.

"The lands referred to as being excepted from restoration are the lands involved in the suit decided by the United States Supreme Court (168 U. S., 1, *supra*) which were claimed by defendants in that suit other than the Southern Pacific Railroad Company, and the trustees of a certain mortgage executed by that company, and the lands lying within the San Gabriel tim-

ber-land reserve, all of which are specifically noted in said instructions.

"The land here in controversy, being situated within the common indemnity limits of the grant to the Atlantic and Pacific Company, and that to the Southern Pacific Company branch line, and not within the exceptions referred to, are within the said instructions as a part of the restored lands. The departmental decision of November 22, 1895, holding intact the company's selection of the same, was therefore erroneous, and is hereby set aside and vacated; your office decision of August 1, 1894, is reversed; and appropriate action will be taken upon Smead's application in accordance with this decision."

United States v. *Colton Marble and Lime Co.*, and *United States* v. *Southern Pacific Railroad Co.* (146 U. S., 615, 619).

[Decided December 12, 1892.]

"One thing which distinguishes the grant of 1871 to the Southern Pacific Railroad Company from most, if not all other, land grants is the proviso somewhat considered in the opinion in the former cases, and which reads:

"'*Provided, however*, That this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company, or any other railroad company.'

"What is the significance of this proviso? Without it, certainly, the Southern Pacific, its grant being of later date, would be postponed to the Atlantic and Pacific; and on the filing by each company of a map of definite location, the title to the lands within the granted limits would vest in the Atlantic and Pacific

Company, to the total and absolute exclusion of all claims on the part of the Southern Pacific. The proviso, therefore, was without significance in respect to such lands. It in no manner strengthened the title of the Atlantic and Pacific, and took nothing away from the Southern Pacific. Yet it can not be supposed that this proviso was meaningless, and that Congress intended nothing by it. Carefully inserted, in a way to distinguish this grant from ordinary later and conflicting grants, it must be held that Congress meant by it to impose limitations and restrictions different from those generally imposed in such cases, and it in substance declared that the Southern Pacific Company should not in any event take lands to which any other company had at the time a present or prospective right."

Southern Pacific Railroad Co. v. *United States* (168 U. S., 1, 45, 46, 66).

[Decided October 18, 1897.]

"In the cases of *United States* v. *Colton Marble and Lime Company* and *United States* v. *Southern Pacific Railroad Company* (146 U. S., 615) it was adjudged that the proviso in the act of March 3, 1871, c. 122, 16 Stat., 573 (giving lands in aid of the construction of the Southern Pacific Railroad), that the grant should 'in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company,' operated to except the indemnity lands of the Atlantic and Pacific Company from the grant to the Southern Pacific Company."

"The lands now in controversy are situated opposite to and are coterminous with the first, second, and fourth sections of the Southern Pacific Railroad as constructed between 1873 and 1877, inclusive, and

within the primary and indemnity limits of the grant to the Southern Pacific Railroad Company made by the twenty-third section of the Texas and Pacific act of March 3, 1871, the 61,939.62 acres patented to that company being opposite to the first and fourth sections of its road. It may be said that the lands here in dispute belong to one or the other of the following classes: Lands within the common granted limits of both the Atlantic and Pacific grant of 1866 and the Southern Pacific grant of 1871; lands within the granted limits of the Southern Pacific grant and the indemnity limits of the Atlantic and Pacific grant; lands within the Southern Pacific indemnity limits and the Atlantic and Pacific granted limits; lands within the common indemnity limits of both grants. Of those in dispute 219,012.93 acres have not been surveyed by the United States.

"The result is that the decree must be affirmed in all respects as to the Southern Pacific Railroad Company, as well as to the trustees in the mortgage executed by that company, and affirmed also as to the other defendants, subject, however, to the right of the Government to proceed in the circuit court to a final decree as to those defendants, and it is so ordered."

Southern Pacific Railroad Co. v. *United States* (United States Circuit Court of Appeals, 109 Fed., 913, 916, 917).

[Decided May 20, 1901.]

"The grant to the Southern Pacific Railroad Company is made in section 23 of this act, which reads as follows:

"'That for the purpose of connecting the Texas Pacific Railroad with the City of San Francisco, the

Southern Pacific Railroad Company of California is hereby authorized (subject to the laws of California) to construct a line of railroad from a point at or near Tehachapa Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado River, with the same rights, grants, and privileges, and subject to the same limitations, restrictions, and conditions as were granted to said Southern Pacific Railroad Company of California by the act of July twenty-seven, eighteen hundred and sixty-six: Provided, however, that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company.'

"The record shows that the Texas Pacific Railroad Company, on August 15, 1871, filed a map of its general route from a point in Texas to the bay of San Diego, showing the line of route designated as the 'direct line;' that the Southern Pacific Railroad Company, on April 3, 1871, filed a map of its general route from Tehachapa Pass, via Los Angeles, to the Colorado River at a point near Yuma.

"Had the Texas Pacific Railroad Company, or any other railroad company, acquired any present or prospective right to any of the lands embraced in this suit at the time the grant was made by the Government to the Southern Pacific Railroad Company, March 3, 1871? The answer to this question will dispose of the appeal taken herein by the Southern Pacific Company, and will be found in the opinion of the court in *United States* v. *Colton Marble and Lime Co.* (146 U. S. 615; 13 Sup. Ct., 163; 36 L. ed., 1104). It is true that in that case the court confined itself to the conflicting claims of the Southern Pacific and the Atlantic and Pacific Company; but, by reference to the provisos in the grant to the Southern Pacific, it will be seen that it also

includes 'present or prospective' rights of 'any other railroad company;' and it therefore necessarily follows that the views expressed by the Supreme Court in that case apply with equal force to the conflicting claims, if any, between the Southern Pacific and the Texas Pacific, because whatever rights the Texas Pacific Company ever acquired to any of the lands in question continued to exist until the act of forfeiture passed by Congress February 28, 1885, and as long before that time the Southern Pacific Company had built the road it was authorized to construct, and filed in the General Land Office maps showing its definite location, it necessarily follows that if at the latter date the lands in suit, or any of them, were for any reason reserved, or were lands to which the Texas Pacific Company had acquired a present or prospective right, such lands did not pass to the Southern Pacific Company under its grant. For as to such lands the Texas Pacific Company certainly had a 'prospective,' if it did not have a 'present right.' Inasmuch as the grants to the Southern Pacific and Texas Pacific Railroad companies were given by the same act, and of the same date, the ordinary and usual rule would be to give each of said companies one-half of such lands as were within both grants. But the case under consideration is taken out of the ordinary rule by the proviso annexed to the grant to the Southern Pacific Company."

The foregoing extracts from the opinions in the cases above mentioned are respectfully submitted.

JOSEPH H. CALL,
Special United States Attorney.

MARCH 3, 1903.

Supreme Court of the United States.

No. 190.—October Term, 1902.

The Southern Pacific Railroad Company et al., Appellants, vs. The United States of America. } Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

[April 6, 1903.]

Mr. Justice Holmes delivered the opinion of the Court.

This is a bill to quiet title brought by the United States against the plaintiff in error. It comes here by appeal from a decree of the United States Circuit Court of Appeals, 109 Fed. Rep. 913, affirming a decree of the Circuit Court, 94 Fed. Rep. 427, in favor of the United States. The United States claims under forfeiture of a grant made to the Texas Pacific Railroad Company in its charter, and the Southern Pacific Railroad Company under words in the same charter which are construed to make an incidental grant to it. The principal land in controversy is land within the place limits of the Southern Pacific under the said grant and within the twenty mile limit of the Texas Pacific, being land situated where the road of the former company and the contemplated track of the Texas Pacific met at Yuma on the Colorado River in the southeastern corner of California. The United States contends that this land was excepted from the Southern Pacific grant.

The charter is the act of March 3, 1871, c. 122; 16 Stat. 573. By § 9 it grants to the Texas Pacific by words in the present tense "ten alternate sections of land per mile on each side of said railroad in California, where the same shall not have been sold, reserved, or otherwise disposed of by the United States," &c. By § 12, "said company, within two years after the passage of this act, shall designate the general route of its said road, as near as may be, and shall file a map of the same in the Department of the Interior; and when the map is so filed, the Secretary of the Interior, immediately thereafter, shall cause the lands within forty miles on each side of said designated route within the Territories, and twenty miles within the State of California, to be withdrawn from pre-emption, private entry, and sale." The Texas Pacific filed its map of general route in August, 1871, and in October, 1871, the Secretary of the Interior withdrew the odd sections according to the statute, including the land in question.

By § 23 of this same charter, for the purpose of connecting the Texas Pacific Railroad with San Francisco, the Southern Pacific was author-

ized to construct a line to the Texas Pacific road at or near the Colorado River, "with the same rights, grants, and privileges, and subject to the same limitations," &c., as in the act of July 27, 1866, "*Provided, however* that this section shall in no way affect or impair the rights, present or prospective, of the Atlantic and Pacific Railroad Company or any other railroad company." It was decided in *United States* v. *Colton Marble and Lime Co.*, 146 U. S. 615, that this proviso excluded the indemnity lands of the Atlantic and Pacific road and that the Southern Pacific took nothing in them, even after a forfeiture of the Atlantic and Pacific grant. But it is said that the Atlantic and Pacific had filed a definite location, and it is contended on several grounds that there in not a similar exception in this case.

In the first place, it is denied that the Texas Pacific is included under the words last quoted: "or any other railroad company." But we think it too plain for extended argument that it is included by those words. It was called into being and was an "other railroad" at the moment when the proviso took effect. In fact, it was the only other railroad, so far as has been suggested to us, to which the words could apply. It received a grant for its main line, while that to the Southern Pacific was for a branch. By the contemplated junction of the latter with the former there would arise a conflict for which it was proper to provide, and natural to provide as the statute did.

Next it is said that the Texas Pacific had no prospective rights at the moment when the act was passed, and that is said to be the moment when her priorities were fixed. We cannot take the words of the proviso so narrowly. The Atlantic and Pacific had not fixed its definite location when the act was passed, and yet in the decision which we have cited its indemnity lands were held excepted from the Southern Pacific grant. See *United States* v. *Southern Pacific R. R.*, 146 U. S. 570, 573; *Southern Pacific Railroad* v. *United States*, 183 U. S. 519, 522. As to the phrase "prospective rights," no doubt it is inartificial. The adjective changes the very nature of the substantive. A prospective right is not yet a right. It is only an expectation having a certain intensity of reasonableness. But it is plain, for instance, that when the lands were withdrawn along the general route of the Texas Pacific under § 12, that road had a prospective right to the whole of its place lands which the Southern Pacific could not affect by anything which it might do later. The statute is not governed by the ordinary rule as to contemporaneous grants. The Southern Pacific was not intended or allowed to interfere with what the Texas Pacific might take.

The strength of the appellant's case is in a somewhat attenuated line of reasoning. The Texas Pacific act refers to the act of July 27, 1866, for the rights conferred on the Southern Pacific. c. 278, 14 Stat. 292. The

ast mentioned statute is an act incorporating the Atlantic and Pacific Railroad Company. By § 18 the Southern Pacific is authorized to connect with the Atlantic and Pacific and is to have similar grants of land with that company. By § 6 there is a provision for the withdrawal of lands along the general route of the Atlantic and Pacific somewhat like that which has been mentioned as contained in § 12 of the Texas Pacific charter. It may be argued that it is implied by § 18 of the Atlantic and Pacific charter that there is to be a similar withdrawal of the land there granted to the Southern Pacific, and that this implied provision is carried over by a further implication to the grant to the Southern Pacific in § 23 of the Texas Pacific charter. The Southern Pacific filed the location of its general route in April, 1871, before the filing by the Texas Pacific, and as the grant to the Texas Pacific by § 9 was only of lands not sold, reserved or otherwise disposed of by the United States, it may be said that the Southern Pacific has got a preference, much as the Texas Pacific would have got one had the Southern Pacific done nothing before the Texas Pacific filed the location of its general route.

It must be admitted that if this argument is correct in its premises it puts a good deal of a strain on the proviso in favor of the prospective rights of the Texas Pacific. For at the time when the Southern Pacific filed the location of its general route the prospective rights of the Texas Pacific were not determined otherwise than by its incorporation and the indications and promises in its charter. Nevertheless we are of opinion that the argument cannot prevail. It is only by a stretch that the provision for withdrawal of lands along the general route of the Atlantic and Pacific could be extended to the grant to the Southern Pacific in the Texas Pacific charter, and if it be so extended it is such a remote and probably unconsidered consequence of a reference to a reference that it cannot be allowed to outweigh the plain intent of the proviso in § 23, reinforced by the express arrangement for withdrawal in favor of the Texas Pacific in § 9. Assuming that proviso to refer to the Texas Pacific, it indicates a plain intent to except from the grant to the Southern Pacific the land that in the natural course of events would be covered by the location of the former road. The conflict of interests naturally would be limited to the point of connection at Yuma. There might be no other. As to that land, the plain object of the proviso was to avoid a race of diligence by giving priority to the main line of the chartered road over the connecting branch. Our decision is in accord with the settled construction and practice in the Department of the Interior following a ruling of the late Mr. Justice Lamar when Secretary of the Interior. *Texas Pacific Railroad and Southern Pacific Railroad*, 4 L. D. 215.

The Texas Pacific grant was declared forfeited by the act of February 28, 1885, c. 265; 23 Stat. 337, and this forfeiture enured to the benefit of

the United States. *United States* v. *Southern Pacific Railroad*, 146 U. S. 570. It is argued further, however, that if the Southern Pacific did not get the lands in question under its primary grant, it may take a part of them as indemnity lands. It is said that the company has a right to take them for that purpose if the status of the lands at the time of selection permits it. *Ryan* v. *Railroad Co.*, 99 U. S. 382. That contention seems to be disposed of by *Southern Pacific Railroad* v. *United States*, 168 U. S. 1, 47, 66, and the practice of the land department for many years has been inconsistent with it. *Southern Pacific Railroad* v. *Moore*, 11 L. D. 534; *Moore* v. *Kellogg*, 17 L. D. 391; *Smead* v. *Southern Pacific Railroad*, 29 L. D. 135. When it is decided that the company got no title to the land within its twenty mile limit, it would be contrary to the intimations of the cases to allow it to take the adjoining strip outside under a claim of indemnity. See *Bardon* v. *Northern Pacific Railroad*, 145 U. S. 535, 545; *Clark* v. *Herington*, 186 U. S. 206. It is not clear that the language of the statute does not forbid it. The indemnity to the Atlantic and Pacific, by § 3 of its charter adopted for the Southern Pacific by § 18, is to be other lands "in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers." It might be argued that the last quoted words dispose of the matter. Without going into further reasons for our decision, we are of opinion that the decree appealed from was right. We deal only with the questions argued in this court.

Decree affirmed.

Mr. Justice BREWER and Mr. Justice DAY took no part in the decision of this case.

True copy.

Test:

Clerk Supreme Court, U. S.